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THE WALL STREET JOURNAL THURSDAY, JANUARY 26, 1995

Philip Morris's Net More Than Tripled In 4th Quarter, Aided by Tobacco Sales

By SUEIN L. HWANG
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK – **Philip Morris Cos.'** fourth-quarter earnings more than tripled on strong sales gains by its world-wide tobacco business – particularly the power-house Marlboro brands.

The company's earnings jumped to $1.09 billion, or $1.27 a share, compared with $339 million, or 38 cents a share, in the year-earlier period. Excluding the impact of a 1993 restructuring charge, which depressed earnings for that year, Philip Morris's net rose 37%. Sales jumped 12% to $16.5 billion.

The tobacco and food giant's results signaled a forceful showing in its battle against cheap, generic smokes, amid broader signs that U.S. cigarette consumption has stopped declining. Fourth-quarter operating income of the U.S. tobacco unit increased two-thirds to $812 million, while sales increased 13% to $2.78 billion. Market share of No. 1 ranked Marlboro crept up to 29.4%, compared with 29.1% last August.

Analysts were particularly impressed that Philip Morris was able to hit the upper end of their estimates while still raising advertising spending in the U.S. According to Salomon Brothers Inc.'s Diana Temple, the industry spent 50% more on ad pages in October. "They've clearly won the price war," said S. Leigh Ferst, analyst at S.G. Warburg.

Cigarette Consumption

A number of industry watchers also believe Philip Morris and the other tobacco companies may be quietly benefiting from a larger trend: The decadelong decline in U.S. cigarette consumption is starting to level off.

U.S. Department of Agriculture data report that the rate of decline is sharply slowing, thanks to price cuts and a rising number of young smokers. Some in the industry say consumption actually didn't fall at all in 1994.

"If consumption continues to be flat, I think we can have positive earnings surprises in 1995," said Ms. Temple.

Geoffrey C. Bible, Philip Morris's chief executive officer, who will gain the chairman's title at the end of this month, said in a statement that the company is "well positioned for a year of solid earnings growth in 1995."

Mr. Bible, who was elevated to the CEO post in June, has wasted no time in shaking up the executive suite. In the past month, Philip Morris replaced the heads of both its Kraft Foods and tobacco units.

Litigation Fears

But the healthy profit picture hasn't done much for Philip Morris's stock price, amid fears of a new wave of tobacco litigation. The stock, which traded in the $70 range two years ago, closed yesterday at $58.375, up 12.5 cents, in composite New York Stock Exchange trading.

Investors are particularly jittery about a case in New Orleans, where a federal judge is expected to decide soon whether a big liability suit can be granted national class-action status.

The company said its Marlboro brands also fired up tobacco sales overseas, with strong results in established markets as well as Central and Eastern Europe. Overall, operating income of its international tobacco unit rose 39% to $598 million, while revenue rose 15% to $4.07 billion.

Earnings at the Kraft Foods unit, which generates 24% of the parent company's operating income, rose 7% to $579 million, while revenue was up 11% to $5.6 billion.

The results include Kraft's food-service business, which the company has agreed to sell to investment firm Clayton, Dubilier & Rice, but don't include the recently divested Budget Gourmet frozen-food line.

Improvement Expected

The Kraft results were largely in line with estimates by analysts, who expect the unit's operating margins to improve with its recent divestitures.

Profit in the international foods business rose 8% to $397 million, while revenue increased 14% to $2.98 billion. At the Miller Brewing unit, operating income rose 57% to $47 million, while revenue grew 3% to $925 million.

For the full year, Philip Morris's earnings rose 53% to $4.73 billion, or $5.45 a share, while sales increased 7% to $65.13 billion. Excluding the impact of the 1993 restructuring charge and an accounting change, full-year profit rose 17%.

USA TODAY · THURSDAY, JANUARY 26, 1995

Tobacco sales light up Philip Morris earnings

From staff and wire reports

BIBLE: Philip Morris CEO says 1994 was a good year.

The Marlboro Man continues to ride high.

Tobacco and food giant **Philip Morris** reported sharply higher fourth-quarter earnings Wednesday, paced by solid growth in Marlboro cigarettes.

Quarterly earnings surged 37% to $1.1 billion, or $1.27 a share, from $796 million, or 90 cents a share, a year earlier. Revenue rose 12% to $16.5 billion from $14.7 billion.

Full-year earnings rose 17% to $4.7 billion, or $5.45 a share, vs. $3.6 billion, or $4.06 a share, in '93. "1994 was a year of extremely good growth," CEO Geoffrey Bible says. "We're well positioned for a year of solid earnings growth."

Tobacco income jumped nearly 20% last year to $6.2 billion as cigarette revenue rose 15%. Underscoring growth: A price war the company launched in April 1993 to counter discount brands has boosted market share.

Philip Morris, which also makes Miller beer and owns Kraft and General Foods, rose ⅛ to $58⅜ Wednesday.

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THE NEW YORK TIMES, THURSDAY, JANUARY 26, 1995

BUSINESS Digest

Philip Morris posted soaring fourth-quarter earnings, fueled by strong gains in its tobacco operations. [D4.]

Philip Morris Net Showed A Sharp Rise in 4th Quarter

By GLENN COLLINS

Fueled by strong gains in its domestic and international tobacco operations, the Philip Morris Companies reported soaring fourth-quarter earnings yesterday.

Net income rose sharply to $1.09 billion, or $1.27 a share, from $339 million, or 38 cents a share, for the last quarter of 1993. However, as a result of an after-tax restructuring charge of $457 million, or 52 cents a share, for the company's worldwide operations during 1993, the adjusted net rose 37 percent.

While growth in the company's food business for the year was what analysts called a sluggish 5.6 percent, tobacco sales boomed during the quarter, as operating income from tobacco increased 19.6 percent, to $6.2 billion. The company set a record for its worldwide tobacco shipments of 757 billion cigarettes. For the year, Marlboro achieved a 29 percent share of the domestic retail cigarette market, a record for the brand.

"This company is now being run by tobacco people and not food people, and it shows," said Roy D. Burry, a securities analyst for Oppenheimer & Company. "The bottom line is that tobacco reigns supreme."

He referred to the seismic reshuffling last June, when the company's chairman, Michael E. Miles, who had run the company's food-service divisions, was deposed in favor of William Murray. In December, the company announced that Mr. Murray would retire as chairman and be succeeded on Feb. 1 by Geoffrey C. Bible. Both Mr. Murray and Mr. Bible came up through the company's tobacco ranks.

For the year, net earnings for Philip Morris were up 17.4 percent, to $4.73 billion, or $5.45 a share, compared with 1993 earnings of $4.03 billion, or $4.58 a share, excluding a charge for accounting changes, factory closings and job reductions.

In a statement, Mr. Bible said that "we delivered some of the best results in our history, and emerged from the year sound, strong and growing."

Indeed, Philip Morris, like other tobacco companies, emerged from the year without having Federal excise taxes imposed on cigarettes and, thanks to the November election results, is likely to face less strident criticism in the new Republican Congress.

Mr. Burry said that the strong gains in domestic cigarette sales were coming from Mr. Miles's April 1993 gamble, when the company slashed the price of its domestic cigarettes to compete with low-price rivals.

"They did the right thing," Mr. Burry said, since smokers came back to Marlboro and "now we're seeing a shift in the product mix toward premium brands."

Philip Morris Cos. (MO,N)

Qtr. to Dec 31	1994	1993	%Ch
Rev.	16,501,000,000	14,714,000,000	+12.2
Net inc.	1,092,000,000	b339,000,000	
Sh. earn	1.27	.38	
Sh. out.	858,000,000	877,000,000	
Yr rev.	65,125,000,000	60,901,000,000	+7
Net inc.	4,725,000,000	b3,091,000,000	+51.6
Sh. earn	5.45	3.52	
Sh. out.	867,000,000	878,000,000	

b-Included an after-tax restructuring provision of $457 million, or 52 cents a share, for costs of its worldwide operations, in the quarter and year. The year was also after a charge of $477 million, or 54 cents a share, net of income tax benefit of $297 million, from the cumulative effect of change in accounting reflecting the adoption as of Jan. 1, 1993, SFAS No. 112, "Employers' Accounting for Post-employment Benefits."
Revenue is operating revenues.

Yesterday's closing price:
$58.375
Up 12.5¢

THE WASHINGTON POST

THURSDAY, JANUARY 26, 1995

DIGEST

Philip Morris's profits tripled in the fourth quarter, to $1.09 billion, and climbed 52.9 percent for the year to $4.73 billion. The gains were due partly to restructuring charges that depressed 1993 results.

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INVESTORS BUSINESS DAILY THURSDAY JANUARY 26, 1995

Philip Morris Profits Rise 41%, Fueled By Solid Tobacco Results

NEW YORK (Reuter) — Food and tobacco giant Philip Morris Cos. yesterday reported sharply higher earnings for the fourth quarter and year, paced by a solid rebound in the Marlboro maker's cigarette operations.

The New York-based company, which makes Kraft cheese, Miller beer and a wide range of other consumer products, said fourth-quarter net income more than tripled from a year earlier, when results were depressed by special charges.

But even excluding the charges, earnings grew 41% to $1.09 billion, or $1.27 a share, from $796 million, or 90 cents a share. The charge had reduced the prior year's net income to $339 million.

Earnings were close to the $1.26-a-share average estimate of analysts, according to Zacks Investment Research Inc.

Revenue jumped 12% to $16.5 billion from $14.7 billion.

In addition to strength in its tobacco business, Philip Morris cited improved results from its food and beer operations.

Tobacco sales worldwide rose 15% to $4.07 billion in the fourth quarter as operating income jumped 39% to $598 million. Domestic revenue grew 13% and operating income soared 66%.

Operating income in the food business rose 7% in the quarter to $579 million, as sales grew 11% to $5.6 billion.

Earnings in the beer business improved, reflecting cost cutting and improved volume. Operating income at Miller Brewing Co. jumped 57% in the quarter to $47 million on a 3% rise in sales, to $925 million.

For the year, earnings rose 34% to $4.73 billion, or $5.45 a share, from $3.57 billion, or $4.06 a share. The 1993 results exclude a one-time charge for accounting changes.

Per share earnings for the year equaled the highest ever, set in 1992, before the company lowered prices on its premium cigarette brands in the U.S. Revenue for the year rose 7% to $65.1 billion from $60.9 billion.

In late afternoon trading on the New York Stock Exchange, Philip Morris was up 1/4 at 58 1/2.

NEW YORK POST **BUSINESS** THURSDAY, JANUARY 26, 1995

Big Mo's profits surge 17.4%

By JOHN DURIE

Big increases in international and domestic tobacco profits helped boost Philip Morris' earnings by 17.4 percent to $4.7 billion, or a record $5.45 a share last year.

In the fourth quarter, profits doubled from depressed year-ago levels to $1.09 billion, or $1.27 a share.

The results were in line with Wall Street estimates, but the company's stock price gained 1/8 to 58 3/8 on the news.

Gary Black, the Sanford Bernstein analyst, expects the company to increase profits this year by 17 percent, to $6.40 a share.

Last year's performance shows the company bounced back from 1993 losses caused by the tobacco price-cutting war, and its flagship Marlboro brand increased domestic market share to 29.4 percent, 7.4 percent above March 1993 levels.

Overall company tobacco-market share increased 4.7 percent over the period, to 46.4 percent.

Marlboro

MARLBORO
Getting more popular.

The market-share gains helped domestic tobacco-division sales up 8.6 percent, to $11.1 billion, and operating profit up 17.6 percent, to $3.3 billion.

International tobacco sales jumped 11.5 percent, to $17.6 billion, and operating profits increased 21.9 percent, to $2.9 billion.

Food operations continued to improve, but gains lagged behind the record-breaking performance of the company's tobacco operations.

International food profits rose 3.5 percent, to $1.2 billion, on a 7.2 percent rise in sales, to $10.6 billion.

U.S. food profits rose 5.6 percent, to $2.5 billion, on a 2.9 percent increase in sales, to $21.6 billion.

Beer profits were up 16.6 percent, to $415 million, on a 3.4 percent increase in sales, to $4.3 billion.

Geoff Bible, Big Mo's incoming chairman, said: "We delivered some of the best results in our history and emerged from the year sound, strong and growing."

The company's record profits were $4.9 billion in 1992, but last year's earnings-per-share profits of $5.45 matched 1992 levels.

Roy Burry, tobacco analyst at Oppenheimer, said the tobacco results were "extremely good," but food growth was "slow and a little disappointing."

Philip Morris is trading at nine times last year's earnings. This represents a discount of more than 30 percent to the overall market.

This is due in part to fears that the tobacco industry will be caught in the wave of potential liability lawsuits.

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FOR PHILIP MORRIS STATION CNBC-CA

PROGRAM MARKET WRAP 5PM CITY NY

DATE 01/25/95 05:10PM AUDIENCE

SUBJECT PHILIP MORRIS EARNINGS

BROADCAST EXCERPT

SUE HERERA (ANCHOR): Dow component Philip Morris out with its fourth quarter earnings today. The company reported it made a dollar 27 in the period. That's a penny above consensus estimates and way above the 38 cents it earned a year ago. Philip Morris finishing out today's trading session up on eighth at 58 and 3 eighths. Lisa Castleman is live from New York City with more on this story. Good afternoon Lisa.

LISA CASTLEMAN (REPORTER): Good afternoon, Sue. Well, the officials at the Philip Morris company declined to be interviewed today, but in a written statement they said they are happy with the company's growth over the past year. And while tobacco companies are finding an increasing anti-smoking environment, here in the U.S. their cigarettes are continuing to find growing demand around the world.

ROY BURRY (OPPENHEIMER): You walk down the supermarket aisle's in Tokyo, Paris, Moscow, Bombay and you find Philip Morris all over, Marlboro all over.

CASTLEMAN: And the company has a competitive advantage overseas selling cheaply produced high quality leaf tobacco products. All this, an important factor at a time when the tobacco industry faces mounting opposition in the U.S. and tobacco sales reaches flat. In an environment like that, analysts say that even flat sales aren't so bad.

RONALD MORROW (SMITH BARNEY): Consumption's flat, that's if consumption had been falling at better than 3% a year.

CASTLEMAN: With international sales playing an increasing role in Philip Morris, global tobacco sales are the biggest growth area. In 1994 international tobacco sales accounted for 27% of revenue, domestic tobacco only 17%.

Food both domestic and international was at 48% and beer, particularly Miller beer brought in 6% of revenue.

Big fourth quarter changes in the KRAFT'S food division are making an impact. The company sold off two gourmet operations and the KRAFT'S FOOD SERVICE distribution business. With an excess cash flow of nearly 3 billion dollars, the board approved a six billion dollar stock re-purchase program over the next three years.

Elsewhere on the KRAFT FOOD DIVISION, a delicate balancing act, The introduction of low-fat products with a commitment to the traditional higher fat food.

BURRY: There is a trend back to the higher fat products on the part of some consumers so they have to push that as well. They have to be at both places at the same time or put in both camps so to speak.

CASTLEMAN: So it may be that even in the highly health conscious environment, the foods that are considered not so healthy will continue to have a loyal following that manufacturers have to attend to. The battle here in the U.S. with respect to tobacco is no longer a growth but market share and Philip Morris's sharing 1994 was up 2.6 points, now almost at 45%. Sue.

HERERA: Okay Lisa, thank you so much. Lisa Castleman joining us from our Midtown Manhattan bureau there.

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USA TODAY'S MARKET SCOREBOARD

Consumer product stocks are back

By Ellen Neuborne
USA TODAY

INDUSTRY SPOTLIGHT

A DAILY LOOK AT A COMPANY, INDUSTRY OR MARKET TREND

Investors are showing more interest in consumer product companies, spurred by news that economic growth may slow this year.

That's logical, analysts say, because those stocks hold up in a slowdown. Besides, the companies have been working to battle back from the rumor that big brands died with the '80s.

Several major players have released strong quarterly earnings this week. Thursday, the list included Sara Lee, McDonald's, Coca-Cola and Procter & Gamble. They came on the heels of Philip Morris' healthy earnings news Wednesday.

"Money managers are beginning to come back into the sector," says analyst Terry Bivens at Argus Research. "Economic growth looks like it may be about to slow. Funds are moving out of the cyclical sectors into the more dependable categories such as food, beverage and household items."

Couple that with the aggressive cost-cutting efforts of leading companies and analysts say the group's stocks will continue to rise in 1995. Consumer product stocks hopped Thursday while the rest of the market remained flat. Coca-Cola shares jumped 1⅛ to $51¾. Sara Lee rose 1 to $25⅜.

In consumer product stocks' favor:

▶ Private-label products are losing their edge with consumers. "There was much more hype about the growth of private label than actually turned out to be the case," says David Leibowitz, analyst for Burnham Securities. "Brand loyalty is still quite strong." Bolstering his point: Big-brand companies such as Coca-Cola and Philip Morris have been able to raise prices the past year without consumer revolt.

▶ Successful downsizing. Brutal years of cost cutting are starting to pay off for consumer product companies. Procter & Gamble is in the midst of an effort begun in mid-1993 to cut 12% of jobs and $500 million in annual costs by 1996.

"It's really hard to come up with a company in this sector that has not undertaken a cost-cutting program," Bivens says. "These are much more efficient companies today, with better (profit) margins. That sets the stage for better earnings."

▶ Shopping trends. After more than a year of strong sales of hard goods, such as autos and appliances, economists predict shoppers will move their money to soft goods, including clothing.

Bucking the trend is Quaker Oats, with earnings down 19% the last quarter. But analysts cite the cost of acquiring Snapple.

Among top picks for consumer products stocks:

▶ Roy Burry, beverage and tobacco analyst for Oppenheimer, likes Philip Morris.

▶ Bivens favors Sara Lee, Hershey Foods and Campbell Soup.

▶ Levy raised her rating on Sara Lee from hold to buy Thursday based on the solid quarterly earnings and potential for 1995. "If there are going to be upside earnings surprises in 1995, they are going to come from consumables," she says.

Fourth-quarter earnings out Thursday:

▶ **AST Research**, net loss of $22.3 million vs. income of $17.9 million; per-share loss of 69 cents vs. income of 55 cents.

▶ **Coca-Cola**, net income of $567 million vs. $466 million (+22%); per share 44 cents vs. 36 cents (+22%).

▶ **Dow Chemical**, net income of $222 million vs. loss of $48 million; per-share gain of 80 cents vs. loss of 18 cents.

▶ **Gillette**, net income of $200 million vs. $169 million (+18%); per share 90 cents vs. 76 cents (+18%).

▶ **GTE**, net income of $693 million vs. loss of $466 million; per-share gain of 72 cents vs. loss of 50 cents.

▶ **McDonald's**, net income of $309 million vs. $265 million (+17%); per share 43 cents, vs. 36 cents (+19%).

▶ **MCI**, net income of $151 million vs. $107 million (+41%); per share 22 cents vs. 18 cents (+22%).

▶ **Quaker Oats**, net income of $34.4 million vs. $42.8 million (-20%); per share 25 cents vs. 31 cents (-19%).

▶ **Whirlpool**, net loss of $91 million, including after-tax restructuring charge, vs. net income of $69 million. Without the charge, earnings would have been $96 million vs. $83 million (+16%).

Second quarter:

▶ **Procter & Gamble**, net income of $750 million vs. $653 million (+15%); per share $1.06 vs. 92 cents (+16%).

— *Compiled by Kristin Young*

Long, strong rebound

Analysts expect consumer product stocks to continue their rebound this year.

Company	Thurs. close, change	52-week high/low
Coca-Cola	$51¾, +1⅛	53½ / 38⅞
McDonald's	$30¾, +1	31½ / 25 9/16
Philip Morris	$59⅛, +¾	64½ / 47¼
Procter & Gamble	$63, +¼	64⅝ / 51¼
Sara Lee	$25⅜, +1	26⅛ / 19¾

Source: USA TODAY research

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MONEY • FEBRUARY 1995

WALL STREET NEWSLETTER Update on the Dow 10 system ■ The best cities for stocks ■ Cashing in on a quick-cash business —by ELLEN STARK

Five bargain blue chips that offer towering gains

P54

Last year's heartless stock market did not spare the most prestigious U.S. corporations. Though the Dow Jones industrial average managed to squeeze out a 2% gain overall, 13 of the 30 blue-chip companies that make up the average lost money, led by $9 billion **Woolworth**, which plunged 41%. The result: Some of America's premier companies are selling at prices that drastically understate their prospects.

There are two ways to take advantage of this rare opportunity. If you like the convenience of a basic but reliable investing system, you can simply buy the 10 highest-yielding stocks in the Dow, hold them until next year and then replace them with the 10 top yielders at that time (see the box below). Since high yields often mean a depressed price, this technique assures that on the whole, you're getting stocks that figure to be on the verge of a recovery.

On the other hand, if you'd like to concentrate on the Dow stocks that analysts see holding the most promise, consider the five stocks that follow, presented in order of projected return. Analysts foresee returns ranging from 14% to 38% over the next 12 to 18 months.

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Philip Morris (MO; NYSE, $57.50; 5.7%). This year's highest-yielding Dow stock, $68 billion Philip Morris began to recover last year from a devastating 1993. Dividends were boosted 20%, the company continued its $2 billion, three-year share repurchase program, and a new chairman, Geoffrey Bible, was appointed in December.

While cigarette consumption continues to decline in the U.S., tobacco profit margins are on the rise again for the first time since Philip Morris slashed the price of its flagship Marlboro brand two years ago. Marlboro's market share has jumped from 22% to 29% since the price cut, and the company has quietly begun raising prices.

Perhaps most important, though, Philip Morris is not exclusively a cigarette maker. Since 1992, profits from its domestic food business, led by brands such as Maxwell House coffee and Post cereals, have risen from 22% to 29% of corporate earnings. Underscoring the importance of the food operations, the new management team has acted quickly to shore up profits there, shedding a less profitable institutional food service company and merging its two consumer divisions, Kraft and General Foods, to streamline operations.

But uncertainties created largely by smoking liability lawsuits continue to keep a lid on the stock. However, A.G. Edwards analyst Barry Ziegler points out that cigarette makers have never had a judgment go against them. That suggests, he says, that Philip Morris is unlikely to be hit with major monetary damages. Ziegler thinks overall profits could rise 15% this year and the stock could hit $70 a share in the next 12 to 18 months for a 30% total return.

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Mid-decade Investment Report

1990-94 are behind us. A look at what's ahead for 1995-1999.

- ▶ **The investment outlook for the second half: Cover Story, below**
- ▶ **Top stocks, top stock funds, top industry groups the first half, 2B**
- ▶ **10 top pros give their advice and picks, 3B**
- ▶ **How to get your portfolio in shape for the next five years, 3B**

Dow industrials' performance

How the 30 Dow companies fared the past five years:

Company	5-year change	Company	5-year change	Company	5-year change
Union Carbide	198.5%	Eastman Kodak	45.4%	Boeing	18.7%
Coca-Cola	166.7%	Dow Jones avg.	39.3%	United Tech.	15.9%
AlliedSignal	95.0%	Philip Morris	38.1%	ALCOA	15.5%
Caterpillar	90.5%	DuPont	36.9%	AT&T	10.4%
P & G	76.5%	3M	34.1%	Texaco	1.7%
McDonald's	69.6%	Intl. Paper	33.4%	General Motors	-0.3%
Disney	64.3%	Chevron	31.7%	Bethlehem Steel	-2.7%
General Electric	58.1%	J.P. Morgan	27.6%	Amer. Express	-3.4%
Goodyear	54.6%	Exxon	21.5%	IBM	-21.9%
Merck	47.6%	Sears Roebuck	20.7%	Woolworth	-53.0%
				Westinghouse	-66.9%

Source: Bloomberg Business News

Investments for the rest of the decade

How do investment pros view the rest of the decade? USA TODAY's **David Craig** and **Donna Rosato** talked to 10 to get their outlook on the financial markets and most promising stocks.

Maceo Sloan

NCM Capital Management, manager

▶ *Year 2000 Dow forecast:* 5000 up 29% from Friday's 3869. "Look for low inflation, moderate economic growth, an increasingly competitive global market and rising productivity."

▶ *Top stock picks:* Food and consumer products (**CPC International**, just-issued **Nabisco Holdings**, **Gillette**, **Colgate-Palmolive**) and pollution control (**Browning-Ferris**).

▶ *Worried about:* Apparel and retail stocks. "Consumer demand is only going to get weaker."

Sloan expects investors to return to out-of-favor consumer growth stocks as the economy slows. "The market will rotate back into that sector by the end of 1995. Multinational companies should do exceptionally well," he says. Another beaten down sector — pollution control — should rebound. "The stocks are cheap, there's been a lot of consolidation and the companies are more efficient."

SLOAN: Consumer demand likely to weaken.

By Lou Bupp, AP

FALCONE: World markets may cause problems.

RENK: Gains will be determined by interest rates.

By Mario Suriani, AP

TANAKA: Stay away from cable TV stocks.

Graham Tanaka

Tanaka Capital Management, manager

▶ *Dow forecast:* 5700 (47%). "Based on 3% (annual) inflation, 3% real economic growth and 8% earnings growth."

▶ *Top picks:* Healthcare (**Pfizer**, **Elan**), restaurants (**IHOP**), technology (**Intel**, **Adaptec**, **Novellus Systems**, **Tandy**) and consumer products (**Philip Morris**)

▶ *What to avoid:* Cable TV stocks. "There's going to be a major battle (for customers) between telephone, wireless and cable TV. Cable looks the least favorable."

Tanaka sees three key trends the next five years: millions of aging baby boomers; rapid changes in technology; and strong economic growth in developing countries. One industry he expects to benefit from the graying of America — health care — is no great surprise. But he also expects moderately priced, casual-dining restaurants such as International House of Pancakes to do well.

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FW JANUARY 31, 1995

FW's MARKET VALUE 500

Here is a ranking of America's most valuable companies—how they performed last year and what you can expect from each of them in 1995.

BY MICHAEL K. OZANIAN *with* Robert L. Meschi, Kurt Badenhausen and Tushar Atre

MICROSOFT, LAST SEEN AT 61, WILL BE TRADING AT ALMOST 90 A share a year from now. Home Depot's stock will climb 58%, to 73, and Capital Cities/ABC, which closed out 1994 at 85, will end this year at 66.

Does FW possess a crystal ball? Not exactly. But in developing this year's ranking of the 500 most valuable U.S. corporations, beginning on page 54, we have come up with the next best thing. FW had San Diego, Calif.-based Ford Investor Services, which provides data to over 200 institutional clients that manage a total of more than $800 billion, project year-end stock prices for each company in our rankings using their dividend discount model (see box opposite, for an explanation of how Ford's model works).

The model makes it extremely easy for long-term investors to use our tables. Simply buy companies selling at low p/e ratios that are expected to go up in price and avoid those stocks trading at high multiples that Ford predicts will go down.

As a benchmark, the average company in the 500 table sells for 14 times 1995 estimated earnings and its stock price is expected to go up 10% by the end of the year. Our "buy" list consists of companies trading for no more than 11 times forecasted earnings whose stock prices are expected by Ford to go up at least 59%. The "sell" list is made up of companies that have 1995 estimated p/e ratios of at least 21 and stock prices that are expected to drop 29% or more.

If you look at the companies on the 500 tables, you can see

(Cont'd)

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how our analysis plays out in practice.

Take Microsoft, which pays no dividend. In the main, Microsoft is expected to do well because of its high 22% growth rate. In addition, the company, which normally trades at a premium to its intrinsic value, is now selling at a discount. This is an indication that the stock is due to rebound.

Then there is Capital Cities/ABC, which pays a paltry dividend and has an estimated growth rate of only 11%. The stock made a big run last year, climbing 38%. This left Cap Cities selling at a 70% premium to its intrinsic value. But historically the company has traded at a premium of just 20%. Thus, Cap Cities stock may be in for a fall.

A couple of famous firms are expected to see big swings in their share prices. The gainers: Intel and Motorola. Strong balance sheets and surging demand for their products are the main reasons why these stocks are expected to go up 73% and 65%, respectively.

On the other hand, computer and software producer IBM and aircraft manufacturer Boeing may plummet. Ford believes that both of them have inflated stock prices relative to their long-term earnings and dividend potential.

Ford's model, even with our adjustments, does not guarantee success. But we believe it provides a reasonable estimate for each stock and properly reflects the companies' current earnings, dividend payout, growth rate, investment quality and interest-rate levels. And when used in conjunction with traditional value-investing techniques, such as buying stocks with low p/e's and holding on for the long term, the model will improve your chances of making money.

After all, isn't that what it's all about? ■

HERE'S HOW OUR MODEL WORKS

In essence, Ford's dividend discount model (DDM) is based on the principle that every stock has an "intrinsic value." That value is equal to the present value of all dividends a stock can be expected to pay over the next 10 years, plus any price appreciation.

To estimate future dividends, a "growth rate" must be determined, since Ford assumes that each firm's payout (dividends as a percent of earnings) will remain constant. Ford determines the growth rate by studying each company's historical operating performance, as well as current trends.

Once Ford has that growth rate, and projects what the dividends will be, the present worth of those dividends is discounted for present value. The discount rate is also applied to the expected stock price at the end of 10 years.

Obviously, the less risk associated with the investment, the lower the discount rate. For example, Microsoft and Capital Cities/ABC are considered by Ford to carry relatively little risk in terms of future financial performance. For these two companies a discount rate of 9.5% was used, roughly 1.5 percentage points above 30-year Treasuries. General Motors, because of the cyclical nature of its business, carries more risk. For it a rate of 11.5% was used.

Some companies, however, never trade close to their intrinsic value. Take Philip Morris, which has increased earnings and dividends an annual average of 20% and 23%, respectively, since 1988, but has been mired in litigation over the hazards of cigarettes. Philip Morris has an intrinsic value of $92.23 per share, according to Ford. But the threat of having to one day pay hundreds of millions in awards to plaintiffs has resulted in the company trading, on average, at just 61% of its intrinsic value during the past five years.

On the other hand, there is the nation's largest cable-TV operator, Tele-Communications Inc., which has lost money in each of the last five years and has never paid out a cent in dividends. Yet the company has typically sold for a 79% premium to its intrinsic value, currently $6.22 per share. This is because investors believe TCI's earnings will grow rapidly once it slows down the pace of acquisitions and capital expenditures associated with those acquisitions.

To account for situations like Philip Morris and TCI, Ford went beyond its standard DDM analysis and made two adjustments to each company's intrinsic value in order to calculate a projected year-end stock price.

First, Ford added a company's growth rate to its intrinsic value. For example, Philip Morris's intrinsic value per share of $92.23 was multiplied by 1.12 (its growth rate is 12%) to get a 1995 year-end projected intrinsic value of $103.30 per share.

Then Ford adjusted that value based on Philip Morris's historical trading range relative to its intrinsic value over the past five years. Over that period the company's stock price on average has been just 61% of its intrinsic value per share. So projected 1995 intrinsic value of $103.30 was multiplied by 0.61. This adjustment brought Philip Morris's 1995 projected stock price down to $63.

On the other hand, TCI has historically traded at a 79% premium to intrinsic value, so its projected 1995 stock price was adjusted upward to $12.92 from its projected intrinsic value of $7.22. —*M.K.O.*

CHEAP STOCKS TO BUY

COMPANY	PRICE CHANGE DURING '95*	P/E 1995 MEAN*
DEAN WITTER, DISCOVER	96%	7
INTEL	73	9
ARROW ELECTRONICS	70	10
UNUM	67	9
LOUISIANA-PACIFIC	65	8
FRANKLIN RESOURCES	65	11
SHAWMUT NATIONAL	62	5
CUMMINS ENGINE	62	8
STATE STREET BOSTON	60	10
BAUSCH & LOMB	59	11

EXPENSIVE STOCKS TO SELL

COMPANY	PRICE CHANGE DURING '95*	P/E 1995 MEAN*
ST. JOE PAPER	–69%	31
UNION TEXAS PETROLEUM	–52	23
MANPOWER	–45	21
TURNER BROADCASTING	–40	40
CHEMICAL WASTE MANAGEMENT	–39	25
COMPUTER SCIENCES	–36	21
AUTODESK	–30	21
FREEPORT-MCMORAN	–30	33
HILTON HOTELS	–29	21
CHIRON	–29	40

* *estimated.*

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WHAT'S IT ALL ABOUT? 500

FW's Market Cap 500, beginning on page 54, ranks the largest U.S. corporations in terms of market value as of Dec. 30, 1994.

Excluded from the rankings are limited partnerships such as ServiceMaster, because their financial results are not comparable with corporations. Also omitted are companies whose financial statements are fully consolidated by another company in our ranking. For example, Marion Merrell Dow's operating results are 100% consolidated by Dow Chemical, which owns 72% of the pharmaceuticals maker. And Berkshire Hathaway, whose market capitalization is $24 billion, would have ranked 29th in our table, but it was not included because its float is too thin. Warren Buffett's company has only 1.2 million shares outstanding.

All data other than 1995 earnings estimates are provided by San Diego-based Ford Investor Services. Ford provides data and research to over 200 institutional clients, including Batterymarch Financial, the Boston Co. and Nicholas-Applegate.

Earnings projections come courtesy of New York City-based I/B/E/S, which collects estimates from over 200 brokerage firms on more than 4,600 U.S. corporations. All per-share data were adjusted for stock splits through Jan. 31, 1995.

What follows are some definitions of important statistics and footnotes:

MARKET VALUE: Closing stock price on Dec. 30 multiplied by the number of common shares outstanding. For companies with multiple classes of stock, such as Food Lion, we show the combined market capitalizations.

CHANGE OVER PAST YEAR: Compares market value on Dec. 30, 1994 with that on Dec. 31, 1993. Companies that have been public for less than one year are footnoted.

SALES: Net sales for the latest four quarters, typically as of September.

PROFITS: Operating income for the latest four quar- (Cont'd)

(Cont'd) ters, also usually as of September. In essence, operating income is reported earnings excluding extraordinary items, cumulative accounting changes, sales of discontinued operations and other one-time items.

EPS Operating income divided by the number of common shares outstanding.

1995 ESTIMATES The average of all earnings-per-share estimates collected by I/B/E/S. When predicting earnings, analysts usually use operating income. The p/e ratio is the closing stock price on Dec. 30, 1994, divided by 1995 estimated EPS. Companies with negative estimated EPS or p/e ratios above 100 are shown as NM (not meaningful).

PROJECTED DEC. 29, 1995 STOCK PRICE: The intrinsic value of a stock as determined by Ford's dividend discount model (see box, page 51), adjusted for the company's expected earnings and dividend growth rate for the next 12 months and for its historical price/intrinsic value multiple.

For example, the model gives Philip Morris an intrinsic value of $92.23 per share, versus its current price of $57.50. The company's growth rate is 12%, so Philip Morris has an expected year-end 1995 intrinsic value of $103.30 ($92.23 times 1.12).

But during the past five years, the company's historical price/intrinsic value ratio has averaged only 61%. So the company's final forecasted year-end 1995 stock price is $63 (61% of $103.30).

PRICE CHANGE 12/29/95 VS. 12/30/94 The forecasted percent change in the stock price from Dec. 30, 1994 to Dec. 29, 1995.

Of course, even with these adjusunents, there are still some caveats. For instance, for the most part, companies are expected to post operating results similar to their long-term averages, and to keep their dividend payouts at about the same percentage of their earnings. This would have overstated IBM's value three years ago and short-changed Chrysler.

No quantitative model can account for sudden large swings in the overall stock market. If Fed Chairman Alan Greenspan decides to raise interest rates two percentage points this year, for example, the shares of virtually all the companies would likely fall short of their forecasted prices. If interest rates were to decline and the market multiple went up dramatically, the majority of stocks would go up more than the tables indicate. —M.K.O.

MARKET CAP RANK	COMPANY 500	MARKET VALUE 12/30/94 (MIL.)	CHANGE PAST YR.	LATEST 12 MONTHS SALES (MIL.)	PROFITS (MIL.)	EPS	1995 ESTIMATES EPS	P/E	STOCK PRICE 12/30/94 CLOSE	12/29/95 PROJECTED	12/29/95 VS. 12/30/94
1	GENERAL ELECTRIC	$87,225	-3%	$64,400	$5,644	$3.30	$3.84	13	$51.00	$51.47	1%
2	AT&T	78,540	11	71,300	5,158	3.30	3.55	14	50.25	51.81	3
3	EXXON	75,433	-4	101,900	4,582	3.69	4.14	15	60.75	60.17	-1
4	COCA-COLA	66,213	14	15,528	2,443	1.90	2.34	22	51.50	65.57	27
5	PHILIP MORRIS	49,415	1	52,200	4,366	5.08	6.25	9	57.50	63.01	10
6	MERCK	47,976	9	14,098	2,932	2.33	2.65	14	38.13	33.11	-13
7	WAL-MART STORES	47,368	-18	78,400	2,452	1.10	1.43	15	21.25	23.09	9
8	INT'L BUSINESS MACHINES	43,159	34	63,500	2,043	3.48	6.14	12	73.50	49.56	-33
9	PROCTER & GAMBLE	42,495	9	30,893	2,337	3.41	3.68	17	62.00	75.04	21
10	EI DUPONT DENEMOURS	38,204	17	38,900	2,403	3.53	4.59	12	56.13	49.02	-13

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THE WALL STREET JOURNAL FRIDAY, JANUARY 20, 1995

GOP-Controlled House Likely to Limit Investor Suits Against Public Companies

By JEFFREY TAYLOR
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – One way or another, the new Republican-controlled Congress appears virtually certain to push through legislation soon restricting investor lawsuits against publicly traded corporations, as promised in the Republicans' "Contract With America."

House Republicans say they favor hard-nosed legislation to discourage frivolous lawsuits against companies whose stock prices have fallen suddenly and unexpectedly for reasons beyond their control. House Democrats say they also want to restrict frivolous suits, but think the Republican approach will damage the ability of defrauded investors to recoup their losses.

But thanks to the Republicans' edge in Congress, their approach seems likely to prevail. "Unlike last year, when the Democrats would not bring this to a markup, we will," says Rep. Jack Fields (R., Tex.), chairman of the House telecommunications and finance subcommittee considering the legislation. "We will bring this to a resolution and a conclusion," probably within a few weeks, he says.

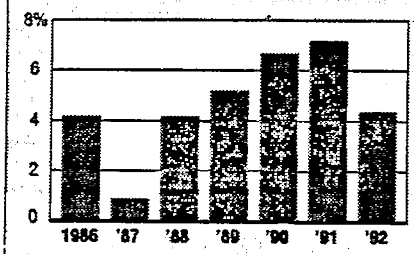
Securities-litigation reform is needed, Republicans and their corporate allies contend, because class-action lawyers are filing waves of meritless civil-fraud lawsuits against U.S. companies whose stock prices fall without warning.

High-tech corporations are especially vulnerable because their stock prices typically are volatile.

A study by Milberg Weiss Bershad Hynes & Lerach, the country's biggest class-action law firm, in part supports claims that investor lawsuits are proliferating. The study, cited in a Harvard Law Review article, shows the number of lawsuits filed against companies with big one-day drops in their stock prices almost tripled to about 300 a year in 1990-92, from an average of 100 a year in the prior three years. However, despite a sharp rise in the number of big one-day losses in 1992, total lawsuits filed that year actually declined slightly.

Litigating Stock Losses

Percentage of times that companies were sued following a one-day drop in their stock price of 10% or more



Source: Milberg Weiss Bershad Hynes & Lerach

The final form of the Republicans' reform legislation has yet to be determined, but the working blueprint is a bill introduced by California Rep. Christopher Cox. Among other things, the bill would require an investor who sues a public corporation to prove that a company willfully mistated or omitted important facts, and that the investor relied on the mistatement and lost money because of it.

The former chairman of Rep. Fields's subcommittee, Rep. Edward Markey (D., Mass.), is offering a rival bill that he says would curb "nuisance lawsuits" while better protecting investors' rights. He publicized it this week by staging a news conference with people who lost money from investments in Orange County, Calif.'s ill-fated investment pool. Those individuals – mainly residents and public employees of the county – assert that Rep. Cox's bill would keep them from recouping their losses by suing Merrill Lynch & Co., one of Orange County's brokers.

But the bill most likely to shape the final form of the new legislation, House Republicans say, is a bipartisan effort introduced in the Senate by Pete Domenici (R., N.M.), and Christopher Dodd (D., Conn.)

The Senate legislation differs from the Cox bill in that it wouldn't require losers of securities-fraud lawsuits to pay the legal expenses of their opponents, Sen. Domenici says. This provision of the Cox bill is controversial even among some Republicans, because they say it might deter small investors with little money to pay legal bills from filing even legitimate lawsuits.

Rather, the Senate bill would give a court the right to order an investor to pay attorney's fees only if the investor had refused to use some other method than litigation to settle the dispute. Another difference is that the Cox bill defines corporate "liability" for shareholder losses more narrowly, Sen. Domenici says.

The battle lines between House Democrats and Republicans were drawn at a raucous hearing of the telecommunications and finance subcommittee. Republicans had stinging criticism for the only witness who testified against Rep. Cox's bill, William Lerach, partner in Milberg Weiss.

Rep. Cox, for instance, demanded to know how much Mr. Lerach earned handling investors' class-action suits last year. When Mr. Lerach demurred, Rep. Cox retorted: "You gave $255,000 in political contributions, so it must have been more than that . . . and all your money comes out of the hides of your victims, whether they're your clients or the companies you sue."

For his part, Mr. Lerach said investors' rights to sue should remain untouched because "financial fraud accompanied by massive insider trading is increasing dramatically" in corporate America. If Rep. Cox's bill is enacted, he added, "Congress will be issuing an open invitation to every charlatan and con artist to prey on investors and consumers."

Others called by the Republicans to the hearing, including University of Chicago law professor Daniel R. Fischel and James Kimsey, chairman of the computer network America Online Inc., testified in favor of Rep. Cox's bill.

"Existing law creates perverse incentives to file securities class-action lawsuits

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Congress May Limit Lawsuits by Investors Against Public Firms

Continued From Page C1

whenever a company experiences any significant change in stock price, no matter what the cause," Mr. Fischel said.

"The system is no longer serving to protect investors, and abusive lawsuits are now harming securities markets," Mr. Kimsey added.

Left off the Republican-generated witness list at yesterday's hearing were representatives of the Securities and Exchange Commission and state securities regulators responsible for investigating investor complaints of corporate fraud. In the past, SEC Chairman Arthur Levitt has said the current system "imposes tremendous unnecessary costs when it is abused by investors or their attorneys," but added that any changes need to preserve the rights of defrauded investors.

THE WALL STREET JOURNAL FRIDAY, JANUARY 20, 1995

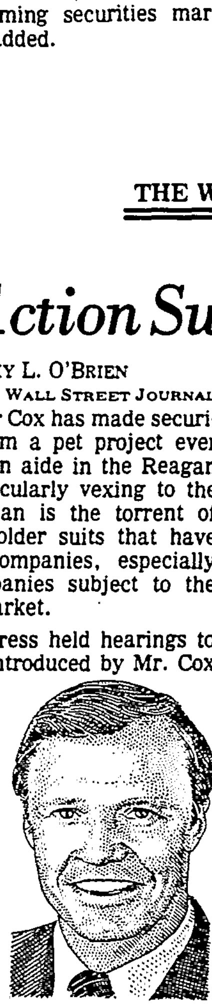
Class-Action Suit Names Securities-Law Reformer

By TIMOTHY L. O'BRIEN
Staff Reporter of THE WALL STREET JOURNAL

Rep. Christopher Cox has made securities litigation reform a pet project ever since his days as an aide in the Reagan White House. Particularly vexing to the California Republican is the torrent of class-action shareholder suits that have bedeviled public companies, especially small growth companies subject to the vicissitude of the market.

Yesterday, Congress held hearings to review legislation introduced by Mr. Cox that would make his dreams of reform a reality. The legislation, first outlined in House Speaker Newt Gingrich's "Contract With America," would sharply limit the circumstances in which investors could bring class-action lawsuits.

There's just one hitch: Mr. Cox himself has been named in a class-action suit filed against the owners of a failed California company, First Pension Corp., and Mr. Cox's former law firm.



Rep. Christopher Cox

First Pension, an Irvine, Calif., concern that administrated pension funds, is currently being liquidated under Chapter 7 of the U.S. Bankruptcy Code. Chapter 7 governs the liquidation of a company rather than a reorganization.

Although not named as a defendant, Mr. Cox is accused in the civil suit, filed on Dec. 31 in Orange County Superior Court, of misrepresenting "material facts" relating to a 1987 securities offering of BMF Mortgage Income Fund, a limited partnership administerd by First Pension.

First Pension's owners, William E. Cooper, Robert E. Lindley and Valerie Jenson, pleaded guilty in August to charges by the Los Angeles U.S. attorney's office of illegally diverting $121.5 million out of First Pension entities, including BMF, beginning in 1982.

According to the suit, Mr. Cox allegedly didn't disclose to California regulators that BMF's trusteeship had been structured in such a way that it escaped state registration requirements. This, the suit says, helped First Pension and its owners to perpetrate a massive scam.

Mr. Cox says the allegations made in the suit are meritless. "Innuendo is patently misleading and intended to intimidate the sponsor of legislation designed to reform the legal profession," he says. "The [BMF] offering that went forward was not commenced until a year and a half after I left the firm."

Michael Aguirre, an attorney with the San Diego law firm Aguirre & Meyer who is representing the investors in the case, says it's true that the offering Mr. Cox prepared legal documents for was never issued.

But Mr. Aguirre says, the offering that eventually took place wasn't materially different from the one Mr. Cox worked on.

Why, then, hasn't Mr. Cox been formally named as a defendant?

"We were trying not to embarrass [Mr. Cox] in our litigation and wanted to give him a chance to answer questions under oath before we named him as a defendant," says Mr. Aguirre. "So far, he's declined to do that."

Mr. Cox says he has no intention of answering questions under oath. "They're just trying to dangle this over my head by taking something that was obviously bad and attaching my name to it," he says.

The suit does name as a defendant California Department of Corporations chief Gary Mendoza, who formerly worked as Mr. Cox's associate at the Newport Beach, Calif., law firm Latham & Watkins. The suit accuses Mr. Mendoza, who worked on both drafts of the BMF offering, of misleading the agency he now heads.

Mr. Mendoza calls the charges "absurd and contemptible" and says the documents provided full and fair disclosure to investors. He says he intends to defend himself,vigorously.

Although First Pension's owner, Mr. Cooper, was a campaign contributor and a client of Mr. Cox's, the congressman says he didn't know Mr. Cooper very well and never had any reason to believe he was engaging in a fraud.

And he says the fact that he was named in the class-action suit filed against First Pension only makes him more determined to see that securities laws are substantially reformed. "This type of case has everything to do with the need for my legislation," he says.

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THE WALL STREET JOURNAL WEDNESDAY, JANUARY 18, 1995

Why Class Action Attorneys Stalk High-Tech Companies

Rule of Law

By Mark Hoffman

My company, Sybase Inc., is among hundreds of high-growth, high-technology companies in California. Our story is not all that different from that of other successful high-tech companies, but in one respect we stand out: We have not been hit with a securities class action lawsuit.

This is no small accomplishment. I read recently that more than a third of the top 100 companies in Silicon Valley have been subject to a securities class action lawsuit. Every CEO I know in the industry spends time worrying about facing one.

I founded Sybase in 1984 with my friend Bob Epstein in a back room of his Berkeley home. In the past 10 years our company has recorded tremendous growth, an average annual rate of more than 100% since 1987. Today, Sybase is the world's seventh-largest independent software company and a leading vendor of client/server software and services for building on-line, enterprise-wide information systems.

Our stock took a tumble this summer after we reported our second quarter financial results. While total revenues and earnings exceeded expectations, growth in one segment of our business did not. The stock has since recovered and our third quarter results appear to have removed previous concerns.

Nevertheless, when our stock fell I readied myself for a call from the lawyers. I knew that our board and management had done nothing wrong, but I also knew that our innocence really didn't matter in this particular legal game. As careful as we had been in our public statements, a stock drop and market confusion are precisely the "evidence" that class-action lawyers pounce on to file suits.

High-growth, high-tech companies are natural targets for class action securities suits because the inherent risks in rapidly changing, technology-driven industries lead to significant stock price volatility. The attorneys who specialize in class actions securities suits know that many courts will accept a sudden stock drop as prima facie evidence of malfeasance on the part of a company's directors.

I have no problem with the basic right of shareholders to seek redress through the courts. Shareholder lawsuits are also necessary to bolster the enforcement efforts of the Securities and Exchange Commission. However, federal courts have greatly skewed the legal system in favor of plaintiffs in securities suits. Suits can be launched with very little "evidence." About all it takes is a turn of events that counters management's stated expectations, a precipitous stock drop, and officers trading stock.

Once these suits are filed, the class action attorneys inflate the discovery process, threaten huge judgments, and even subpoena your customers. They also enlarge their potential payoff by extending the suit to accountants, consultants and outside advisers.

Because securities suits are extremely complicated for jurors and expose corporations to the potential of multi-million dollar judgments, the class action attorneys enjoy extraordinary leverage in forcing early settlements. CEOs often decide to cut their losses and settle.

Given all this, it should be no surprise that the openness that once characterized the high-tech industry is being replaced by circumspection. News about business developments is carefully scrubbed. The once free-flowing dialogue between companies and investors is becoming more guarded. I believe that over time investors will discover they are receiving less and less useful information about the future prospects of high-tech companies. Ultimately, if something isn't done to reverse this trend, the stock prices for high-tech companies will no longer accurately reflect their values.

We need a fundamental rethinking of the laws and judicial procedures that regulate securities litigation. Shareholders must have easy and swift access to legal redress, but steps must also be taken to create a system that protects investors and punishes wrongdoers without feathering the nests of predatory attorneys. The key test of these reforms should be that they promote the disclosure of information that investors need to make the best investment decisions.

> *I believe that over time investors will discover they are receiving less and less useful information about future prospects of high-tech companies.*

The SEC is considering extending its "safe harbor" rule, under which companies cannot be held liable for forward-looking statements contained in their SEC filings, if made in good faith and with sufficient due diligence. The SEC is exploring ways of extending this protection to public statements in press releases, interviews and analysts meetings.

This change is long overdue. The information revolution has greatly reduced the average investor's reliance on 10Ks, annual reports, and proxy statements. Print and broadcast media and on-line services are saturated with news and advice for investors. Since the investment world demands that we communicate this way, doesn't it make sense that the SEC extend its safe harbor rule to these statements?

Something also needs to be done to change the "risk analysis" that class action attorneys now perform when deciding to launch a suit. It costs very little for a law firm to file an action because the pleading requirements are so low. A recent decision in the U.S. Ninth Circuit has made it even easier. The lawyers' potential payoffs are tremendous because of the way courts routinely calculate damages and attorney's fees. Consequently, class action attorneys see little downside and tremendous upside to harassing high-tech companies with securities suits.

Unquestionably the easiest way to correct this imbalance would be to enact the "loser pays" legislation proposed by Rep. Christopher Cox (R., Calif.), which is scheduled to be discussed tomorrow in the House subcomittee on telecommunications and finance. Doing so would raise the downside risk to the attorneys who abuse the current system. It would also encourage corporations to defend themselves rather that settling.

Sens. Christopher Dodd and Pete Domenici and Rep. Billy Tauzin have proposed other reforms that would also help balance the risks in securities litigation. Among them, tightening pleading requirements and pegging damage calculations to actual losses would certainly help, as would standardized fee schedules for class action attorneys, and proportional liability for secondary defendants.

All I'm hoping for is that class action attorneys have to think twice and perform their due diligence rather than race each other to the courthouse. If none of these reforms is adopted, class action attorneys will continue stalking the high-tech industry. The inevitable response will be a new code of silence in Silicon Valley. We will continue breaking new ground in technology. Unfortunately, the market will hear very little about it.

Mr. Hoffman is president, CEO and chairman of the board of Sybase, Inc., in Emeryville, Calif.

FINANCIAL TIMES Date: JAN 25 1995

American Brands puts UK shops and pans up for sale

PM

By Richard Tomkins in New York

American Brands, the diversified US consumer goods group that recently agreed a sale of its insurance business and pulled out of the domestic tobacco industry, is putting two more companies on the market. They are Prestige, the biggest UK manufacturer of stainless steel cookware, and Forbuoys, a UK chain of 700 confectionery, tobacco and newspaper shops.

Together, they had sales of $752m and net losses of $3m in 1994. It is understood that Forbuoys is profitable, and that the losses came from Prestige.

American Brands said it was selling the companies, along with other unspecified businesses and product lines, in line with its plans to become a consumer products company with "powerhouse" brands and leading market positions.

Last July it sold its Dollond & Aitchison optical business in the UK for $146m. In November it agreed to sell Franklin Life Insurance to American General for $1.17bn, and in December it completed the sale of American Tobacco, its domestic cigarette company, to BAT Industries of the UK for $1bn.

American Brands expects to get between $150m and $175m from the latest disposals.

Yesterday the company produced fourth quarter results showing that the net result of the transactions so far – including the expected proceeds of the Prestige and Forbuoys sales – was a pre-tax gain of $332.9m in the period to December.

The results showed a strong recovery at American Tobacco, where operating profits bounced back from $10.5m to $73.5m following a truce in the US cigarette price war. At Gallaher Tobacco, the UK-based international cigarette company, operating profits rose by 11 per cent to $160.3m because a strong rise in exports offset a modest decline in UK volumes.

Operating profits in the distilled spirits division edged ahead by just 0.4 per cent to $106.1m, partly because a big increase in exports of Jim Beam was countered by weakness in US volumes and partly because the inclusion of Invergordon in Whyte & Mackay's figures for a full year was offset by intense competition.

Overall, net income rose from $187m to $269m, or $1.33 per share. American Brands said excluding gains on disposals and the contributions from the discontinued Franklin Life operation, earnings per share were 44 per cent ahead at $1.02 a share. American Tobacco fails to meet the definition of a discontinued business because American Brands is still in the tobacco business with Gallaher.

For the full year, American Brands said that earnings per share would have been $2.37 excluding gains from disposals, Franklin Life and American Tobacco, up 13 per cent on the previous year.

THE WALL STREET JOURNAL WEDNESDAY, JANUARY 25, 1995

AMERICAN BRANDS INC. (N)

Quar Dec 31:	1994	a1993
Revenues.	$3,750,100,000	$3,509,900,000
Inco cnt op ..	c471,900,000	143,900,000
Inc ds op ..	(202,800,000)	40,900,000
Income	269,100,000	184,800,000
Acctg adj	....	b2,600,000
Net income .	269,100,000	187,400,000
Shr earns (primary):		
Inco cnt op	2.34	.71
Income	1.33	.91
Net income ...	1.33	.92
Shr earns (fully diluted):		
Inco cnt op	2.23	.70
Income	1.28	.90
Net income ...	1.28	.91
Year:		
Revenues.	13,146,500,000	12,630,500,000
Inco cnt op ..	c885,100,000	541,200,000
Inc ds op ..	(151,000,000)	127,000,000
Income	734,100,000	668,200,000
Acctg adj	....	b(198,400,000)
Net income .	734,100,000	469,800,000
Shr earns (primary):		
Inco cnt op	4.38	2.67
Income	3.63	3.30
Net income ...	3.63	2.32
Shr earns (fully diluted):		
Inco cnt op	4.24	2.63
Income	3.53	3.23
Net income ...	3.53	2.29

a-Restated to reflect discontinued operations. b-Cumulative effect of accounting changes. c-Includes a net gain of $267,000,000 from the disposal of a business.

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USA TODAY'S MARKET SCOREBOARD

Nabisco whets investor appetites

By Phillip Fiorini
USA TODAY

COMPANY SPOTLIGHT

A DAILY LOOK AT A COMPANY, INDUSTRY OR MARKET TREND

Investors continue to snack on **Nabisco Holdings**.

Nabisco was priced at $24½ Thursday, when parent **RJR Nabisco** offered the public a 19% stake in the cookie and cracker maker. Nabisco has since jumped 12% to $27⅜ and has been among Wall Street's most actively traded stocks.

Stock analysts believe Nabisco could rise to the low $30s this year. Why:

▶ Nabisco's Oreo, Chips Ahoy! and Fig Newtons give it more than 40% of the USA's cookie market. Ritz, Premium, Wheat Thins and Triscuit brands give it more than 50% of the cracker market.

▶ Nabisco has successfully launched and expanded fat-free and low-fat foods. Products such as Snackwells give it 80% of the fat-free cookie and cracker market. That $1-billion-annual-revenue market is growing 25% a year.

▶ Strong management. Food industry analysts say Nabisco is among the best-managed food companies. The first nine months last year, its earnings surged 40% over the same period in '93.

The venerable Nabisco brand also gives the stock cachet. Greg Jackson, portfolio manager at Yacktman Asset Management, says Nabisco could hit $32 a share the next 12 months. He bought 55,000 Nabisco shares at Thursday's initial public offering and wanted more, figuring earnings would continue to grow from product launches and line extensions of established brands.

"Food companies like **Campbell** and **Kellogg** have had a hard time growing unit sales. Instead, they've had to raise prices. But Nabisco hasn't had to rely on boosting prices. It's unique that way," he says.

But Argus Research analyst Terry Bivens says he would be a buyer only if the stock fell to about $23. Nabisco's price-earnings ratio is 18 based on his '95 earnings estimates of $1.50 a share — vs. a P-E of 14 for the average Standard & Poors 500 company. "Some of that premium for Nabisco is well deserved, but 30%?" Bivens says. Still, compared with most other food stocks, Nabisco may be a bit of a bargain. Average food stock P-E: 19.5.

Nabisco was an independent company until 1985, when RJ Reynolds bought it for $4.9 billion to form RJR Nabisco. Leveraged buyout specialist Kohlberg Kravis & Roberts then took RJR private for $26 billion in 1989 before issuing stock again in 1991.

RJR's stock, which closed at $5⅞ Tuesday, has languished the past two years. Tobacco stocks have been out of favor because of strong anti-smoking sentiment, class-action litigation and the threat of higher excise taxes.

In an effort to enhance shareholder value, RJR decided to offer a piece of Nabisco to the public. RJR plans to use proceeds from the $1 billion stock sale to reduce debt.

Stock analysts say spinning off Nabisco to the public also could boost RJR shares because the company still holds nearly 80% of Nabisco.

Food stock hot out of the oven

Nabisco (NA)	'93[1]	'94[1]	'95 est.	'96 est.
Revenue (billions)	$7.0	$7.7	$8.5	$9.4
Net income (millions)	$171	$283	$400	$452
Earnings per share	$0.66	$1.10	$1.50	$1.70

Hq: Parsippany, N.J. **Exch:** NYSE **Employees:** 48,000

Div./yld.: nil **P-E:** 18 **Shares:** 250 million

Offering price 1/19: $24½ **Tues. price:** $27⅜, +⅛

Earnings and revenue estimates: Argus Research, USA TODAY research
P-E based on estimated 1995 earnings.
Source: USA TODAY research
1 – based on pro forma results

FINANCIAL TIMES TUESDAY JANUARY 17 1995

French tobacco group aims to cash in on image problem

By John Ridding in Paris

How do you persuade the public to buy shares in a company that makes products which cannot be advertised and which threaten the health of customers? That is the question confronting Seita, the French state-owned tobacco monopoly expected to lead this year's privatisation programme.

The difficulty of the task became apparent yesterday when the Paris prosecutor's office opened an inquiry into whether Seita's advertising has broken French law. Under the Loi Evin, which took effect in 1993, it is illegal to advertise tobacco products, except in trade journals.

According to Seita, the inquiry is a case of smoke without fire. "We were surprised by the news of the inquiry, but we are confident that our advertising campaign has not contravened any laws," said Mrs Isabelle Ockrent, director of communications.

She says the laws have presented difficulties. "It has been extremely complicated. It is not like Renault where you can just show the cars," she said, referring to the flotation of the state-owned motor group late last year.

Seita argues that is has found a solution to its dilemma by advertising itself rather than its products and spelling out the problems facing the tobacco industry. Under the slogan "what should hold us back is pushing us forward", the company has run advertisements which attempt to make a virtue out of the constraints facing tobacco vendors.

One example is an illustration of a flock of paper butterflies. It carries the message; "strong cigarettes are selling less and less". Seita says the aim is to inform people that the company is the market leader for light cigarettes in France, known as "blondes", and to dispel the impression that it only makes the potent Gitanes and Gauloises brands which cloud Parisian cafés.

Another advertisement carries a picture of an American Indian peace pipe alongside the phrase "smokers should not bother non-smokers". The argument here is Seita's claim to be one of the industry leaders in research into eliminating the unpleasantness of tobacco smoke.

Whether the Paris prosecutor approves remains to be seen. But industry observers play down the prospect of a serious hitch in the privatisation, expected to be launched in the next few weeks. "In the worst case it could bring a fine," says one Paris banker. "In the best it just brings some extra publicity."

Seita is similarly sanguine. "We don't see any problem arising from this," says Mrs Ockrent, adding that the FFr12.5m ($2.35m) advertising campaign, launched on December 12, is already in its final days.

THE WALL STREET JOURNAL

MONDAY, JANUARY 16, 1995

WORLD WIRE

FRANCE TO SELL CIGARETTE MAKER

France said it would begin the public sale of Seita SA, the state-owned maker of Gauloises and Gitanes cigarettes. The government will first seek to sell 25% of the company to institutional investors who would form a core group of shareholders. They will be offered 13 million shares. Analysts estimate Seita's value at $1.5 billion, giving the 25% stake a value of $375 million. Seita thus edges out insurer Assurances Generales de France as the government's first privatization of the new year.

HOUSTON POST JAN 17 1995

Other news to note...

Associated Press

TOBACCO PROTESTS

Austrian tobacco producers burn tobacco leaves in Strasbourg, eastern France on Monday. About 1,400 French farmers and growers, joined by about 600 colleagues from Germany and Austria, protested a drop in earnings and demanded the European Union support their industry. Fires also were set at a similar protest of about 3,000 growers in Agen in southern France. French tobacco growers say their revenues have dropped by an average of about 12 percent during the past two years while the government has increased its tax revenues from tobacco by roughly 30 percent.

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THE WALL STREET JOURNAL TUESDAY, JANUARY 17, 1995

European Governments Turn to Taxes On Consumers to Cover Budget Deficits

By SILVIA ASCARELLI
And TERENCE ROTH
Staff Reporters of THE WALL STREET JOURNAL

FRANKFURT – When European politicians start talking about deficit reduction, smart taxpayers instinctively grab hold of their wallets.

That would be the right reaction again this year as governments across Europe attack budget deficits with a barrage of consumer tax increases hitting everything from savings to alcohol.

The new levies further cloud already uncertain financial markets and raise new doubts about an acceleration in domestic demand, the missing element in Europe's narrow, export-led recovery. But for companies, there are signs that an encouraging trend, reduced social-security contributions and an increase in households' share of the tax burden, is continuing.

The impact on financial markets for 1995 could be good news for bonds, lukewarm for stocks. The bigger tax bite, by damping consumer demand and moderating economic growth, could head off inflation fears and reduce government borrowing requirements. This would help halt climbing interest rates and support prices of short- to intermediate-term fixed-income securities. For equities, however, the implications are less clear. While low inflation traditionally helps share prices, so does growth in consumer demand.

For most of Europe, the bottom line is that a decadelong trend of steadily rising taxes, primarily on consumers, will continue. Critics say the tax increases are a halfhearted effort at fiscal responsibility for governments that would rather not make deep spending cuts in huge and politically sensitive spending, particularly on social programs. One exception is Sweden, where the minority Social Democratic government recently proposed spending cutbacks totaling 24.6 billion kronor ($3.3 billion), largely in social services and welfare. But in a two-pronged attack on their 243 billion krona deficit, the Swedes will also make generous use of tax increases.

Even Britain, where the average tax burden is lower than a decade ago, won't be spared this year. The effects on consumer demand are clear. Credit Suisse First Boston in London estimates that among Europe's four largest economies, new taxes in 1995 will claim 2% of gross domestic product in Germany, and more than 1% of GDP in France, Italy and the United Kingdom.

"Without exception, fiscal tightening, when it reaches this level, has dramatic effect on consumption," says Credit Suisse economist Dominic Konstam. And unlike with earlier cycles, in which tax increases came at a time of falling interest rates, monetary and fiscal policies are being tightened simultaneously. "What we will see now is that consumer spending will stay weak rather than help keep momentum going."

Bad timing or not, governments from Germany to Britain will be using new levies to patch up gaping budget deficits, which in the European Union carry an extra political dimension. At present, precious few members of the EU meet the budget criteria set down in the Maastricht treaty for monetary union. The pact calls for a public-sector deficit that doesn't exceed 3% of GDP and overall debt below 60% of GDP.

But while consumers and savers are taking a big hit, business has been getting some relief as governments move to sharpen the competitiveness of their industries.

"There's a trend toward a change in the structure of taxes," says Peter Praet, chief economist with the Generale de Banque in Brussels. "The idea is to reduce employers' social-security contributions and compensate for that through indirect taxes or income taxes on households."

Spain and Portugal are boosting their value-added taxes, for example, but trimming social-security taxes. In another balancing act, Germany reintroduced a 7.5% income-tax surcharge this year but cut corporate taxes last year, which led to higher dividends from many companies. Belgium did the same thing last year.

While some economists warn that Europe's new barrage of taxes risks retarding growth, others see it as ensuring a slower, but more enduring, recovery cycle.

That could be particularly true of Germany, where the income-tax surcharge reimposed this year will be followed next year by a court-ordered doubling of a tax-free income allowance that should benefit low-income households most.

"Consumption will decline in Germany, but it will be temporary and mild compared to some of the horror scenarios one hears," says Adolf Rosenstock, an economist with the Industrial Bank of Japan in Frankfurt. Further economic expansion should continue to bolster consumer confidence, he argues, leading consumers to spend savings ahead of coming tax cuts.

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THE WASHINGTON POST SATURDAY, JANUARY 21, 1995

Conservative Foes of Government Regulation Focus on the FDA

By John Schwartz
Washington Post Staff Writer

Conservatives hoping to redefine government's role have chosen the Food and Drug Administration and its commissioner, David A. Kessler, as symbols of regulatory excess, in effect hoping that Kessler will do for them what former interior secretary James G. Watt did for the Sierra Club.

A recent newspaper advertisement by the Washington Legal Foundation said, "If a murderer kills you, it's homicide. If a drunk driver kills you, it's manslaughter. If the FDA kills you, it's just being cautious."

With Republicans taking control of Congress, opponents of regulation are finding that they have powerful friends. House Speaker Newt Gingrich (R-Ga.) has taken aim at the FDA, claiming that it needs a thorough restructuring. He has called the agency "the leading job-killer in America." Gingrich also has been quoted as calling the bespectacled Kessler, a Bush administration holdover, "a thug and a bully." Next week, a House subcommittee will take up a bill that would impose a six-month moratorium on federal regulation, stopping many FDA initiatives in their tracks.

Several conservative organizations and industry groups are polishing proposals for FDA reform. The Cato Institute, the Progress and Freedom Foundation, Citizens for a Sound Economy and the American Enterprise Institute all have the agency in their sights.

DAVID A. KESSLER
. . . faces GOP moratorium on rules

Agency officials contend that their best strategy for dealing with the impending attack is to present their record of achievement and improvement. "The best defense for the agency is to do its job," FDA spokesman Jim O'Hara said. "In some instances, the critics are sort of shooting at a ghost of FDA past. In other instances, they're simply shooting at ghosts."

Though the vehemence is new, complaints about the agency are not, predating Kessler's 1990 arrival at the Rockville-based agency. Industry executives and physicians long have contended that delays in approving products are crippling companies, driving them overseas, and harming patients who cannot get life-saving devices that are available in other countries. Some conservatives argue that the cost of regulation outweighs the marginal gains in product safety that it provides.

Kessler's zeal has made the FDA one of the most active agencies in the Clinton administration, and with more initiatives comes more criticism. Changes during his tenure include new rules to keep AIDS and other diseases out of blood and tissue banks, and improved food safety programs. His FDA has brought out new food labels and a simplified system for reporting side effects and problems with drugs and medical devices.

Kessler also launched a moratorium on the use of silicone breast implants until they could be proved safe and worked to broker the entry of the French "morning after" pill, RU-486, into the U.S. drug approval process. He has pursued a major investigation of tobacco company practices and could end up attempting to regulate that politically powerful industry.

At the same time, the FDA has worked to streamline its activities. In the past year, the agency has reduced its backlog of thousands of device applications to a few hundred. It also made progress on drug approvals: In 1994, the FDA cut the median approval time for new drugs to 19

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months, 21 percent shorter than the year before.

But Steve Berchem, spokesman for the leading trade group, the Pharmaceutical Research and Manufacturers of America, said that the FDA approval of 85 new drugs last year—including 23 that work in ways different from existing medicines—was inadequate. Although "the evidence is clear that the drug approval time is improving," Berchem said, "it's still taking so long, and why are there so few?"

Now come the reformers, riding a wave of antiregulatory sentiment in the 104th Congress. The FDA has become the focus of a range of plans.

The Health Industry Manufacturers Association (HIMA), the leading trade group for the medical device industry, is working on a plan to speed up device approvals by channeling many reviews through government-certified bodies, a move that one HIMA official called "semiprivatizing" the agency. Another group would go farther: the Progress and Freedom Foundation, a Gingrich-affiliated think tank, would replace the FDA with an agency designed to put industry executives in charge of product approvals.

Going farther still, the Competitive Enterprise Institute would allow companies to bring products to market that the FDA has not approved. Unapproved drugs and devices would bear a warning of their status; the decision to use them would be up to doctors and patients.

Other reform efforts might focus on the current legal requirement that new drugs and devices be proved not just safe, but effective as well. Companies complain that proving efficacy adds tremendously to their regulatory burden. (The standard was added to the FDA's mandate in 1962 in the wake of the Thalidomide tragedy.)

But even those who have complaints about the FDA worry that some of the reform plans, if enacted, could do more harm than good. "It's in the best interests of the American public and of patients and of our industry to have a strong, reliable FDA," said HIMA president Alan H. Magazine. "The hallmark of real reform is to look carefully at the institution you're dealing with and articulate a mission, a direction, a responsibility. That kind of analysis doesn't lend itself to sound bites."

Consumer advocates say that the antiregulatory movement could lead to a proliferation of hazardous products. Sidney M. Wolfe, executive director of the Public Citizen Health Research Group and a longtime FDA critic, said Americans want their drugs safe and that any attempt to weaken the regulatory safety net "will meet with a significant amount of opposition."

One industry official worried that extreme reform plans could spell trouble for more moderate and workable efforts. "Reaction to those kind of ideas will drown out the good, solid reform ideas," he said.

Magazine agreed: "When we talk about reform, we've got to be responsible—and we've got to put patients first."

THE WALL STREET JOURNAL MONDAY, JANUARY 23, 1995

An Environment for Reform

By CESAR V. CONDA

In the next few months, the Republican majority in Congress will pass versions of what some environmentalists have dubbed the "unholy trinity": risk assessment and cost-benefit tests for all environmental rules, prohibitions on unfunded federal mandates, and compensation for the "taking" of private property by land-use regulation. However, the grass-roots coalition behind these reforms—business owners, state and local government officials, and landowners—should not declare victory.

Clearly, the trinity of reforms will help rationalize environmental regulations and reduce their economic burden ($130 billion annually, according to the Environmental Protection Agency). But the command-and-control regulatory structures of many environmental laws will remain intact. With several major environmental laws up for reauthorization—chief among them the Safe Drinking Water Act, the Superfund hazardous waste cleanup law, the Endangered Species Act and the Clean Water Act—Republicans have an opportunity to reinvent environmentalism and replace it with a new paradigm for environmental protection, one that stresses market incentives, sound science, and "regulatory federalism."

Guiding Principles

In reauthorizing these major environmental laws, Republicans should follow these guiding principles:

First, market incentives and private conservation efforts should take precedence over government solutions. Free-market environmentalism works: For example, in England and Scotland, private ownership of the rivers and waterways has successfully prevented overfishing and controlled water pollution for 800 years. The owners simply charge others for the right to fish in their section of the river. Consequently, the owners have an economic incentive to maintain the fish population and keep the waterway clean. By contrast, two-plus decades of government management has wiped out the fish population in George's Bank, a once bountiful area in the Atlantic Ocean off the coast of New England. Not long ago, George's Bank was closed for fishing.

Two, sound science enhances environmental protection. Without sound science to guide regulatory decisions, scarce public and private resources are wasted on reducing often insignificant health and ecological risks. That's why the GOP's proposal requiring the EPA to analyze and compare its hot-button risks to risks people face in their everyday lives is vital.

For example, the infinitesimal risk of developing lung cancer from second-hand smoke (1.19 relative risk, according to the EPA) is actually lower than the risk of developing cancer of the esophagus from eating beef regularly (1.5) or heart disease from eating one cookie a day (1.49). If risks were put in perspective, Americans' support for costly regulatory schemes such as the proposed public smoking ban would probably diminish.

Three, state and local governments are

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better able to solve local environmental problems. For example, under the Superfund, the states have cleaned up approximately 20 times more contaminated sites than the federal government.

Here's a reform strategy for applying these principles to each reauthorization bill:

• *Safe Drinking Water Act.* Under current law, the EPA requires local drinking-water programs to regulate 25 additional contaminants every three years, regardless of whether they pose real health risks. These mandates cost $1.4 billion annually and often result in ridiculous regulation. For example, Columbus, Ohio, must monitor a pesticide that is only used to grow pineapples.

The compromise bill that almost passed the last Congress solved many of these problems: It required risk and cost-benefit tests for most new contaminants, it provided flexibility for localities in monitoring contaminants, and it created a $1.3 billion revolving loan fund for localities. To strengthen the bill, Republicans should seek additional risk and cost-benefit tests for non-carcinogenic contaminants (e.g., those that may pose the risk of birth defects), and a comparative analysis of drinking-water risks to other health risks. As a long-term goal, authority for safe drinking water should be returned entirely to the localities.

Republicans must aggressively counterattack with an agenda that achieves the same or better environmental protection without costing jobs or limiting individual freedoms.

• *Superfund.* Although the Superfund's authorization expired on Sept. 30, 1994, its tax authority does not expire until the end of this year, thus extending the funding for this costly failure. Superfund has cleaned up fewer than 20% of the more than 1,200 hazardous waste sites at a cost of $25 million per site. Because of Superfund's unfair strict, retroactive, joint and several liability scheme, most of the cleanup costs go for legal and administrative costs.

Millions have been spent to clean up sites that pose absolutely no environmental or health risks. According to a survey of the EPA's own data, only 10% of Superfund cites pose current, actual health risks; the other 90% pose hypothetical risks dependent upon future behavior and land-use changes. For example, the EPA routinely assumes that future site uses will include dirt-eating children who will live there for 70 years. Indeed, of the $14 billion spent on Superfund cleanups, almost half was spent to comply with rules similar to this one.

The Superfund reform bills in the last Congress fell woefully short of fixing the program's fundamental problems. Republicans should simply abolish Superfund outright and replace it with a revolving state loan fund, as proposed by analyst Kent Jeffreys.

Financed in part by a portion of Superfund's current taxes, this fund would provide loans to states and localities for local hazardous waste cleanups. The fund and the taxes should be phased out over a reasonable period; allowing time for the cleanup of the 10% of Superfund sites that pose actual risks. Expensive cleanups should be replaced by land use and deed restrictions along with the selection of the most cost-effective containment measures. Allowing the local community to decide how to spend funds to clean up Superfund sites would produce better results.

• *Endangered Species Act and Clean Water Act.* The most contentious aspects of the Endangered Species Act's and the Clean Water Act's wetlands regulation—the taking of private property because of land-use restrictions—will be, in large part, solved if Republicans enact a tough property rights bill. But again, Republicans should not stop there; they should replace these failed government approaches with more effective, market-based solutions.

Under the Endangered Species Act, for instance, only 19 of 1,354 listed species have been de-listed—seven because of extinction. A 1990 General Accounting Office report found that more than 80% of the act's listed species were actually declining. Clearly, the act has not worked.

Republicans should impose a moratorium on new listings, pending a thorough review of the data and scientific methods used by the government to find out whether a species is truly endangered. The Endangered Species Act should be reformed in ways that make it easier for private landowners and conservation groups to protect, breed and care for imperiled species. According to a Competitive Enterprise Institute report, private conservation efforts—not government regulations—have been responsible for the resurgence of many threatened species, such as the American bison.

The wetlands program should be reformed in ways that focus its efforts on ecologically high-value wetlands (only about 11% of all privately owned wetlands) instead of on puddles of water on some farmer's land. Further, landowners should be given the unrestricted use of their land as long as they create new wetlands to replace the ones they use. Private conservation ought to be encouraged: While the federal government owns only 4.7 million acres of wetlands, about 11,000 private duck clubs have managed to protect five million to seven million acres of wetlands from destruction, according to the National Center for Policy Analysis.

Nation of Love Canals

A recent CNN/USA Today poll found that Republicans hold the edge over Democrats as the party best able to make progress on every major domestic policy issue except one—the environment. To be sure, the Democrats will exploit this advantage by charging that the GOP's common-sense regulatory reforms will somehow lead to a nation of Love Canals and the extinction of the bald eagle. That's why Republicans must aggressively counterattack with a market-based, limited-government environmental agenda that achieves the same or better environmental protection without costing jobs or limiting individual freedoms.

Mr. Conda, former executive director of the Alexis de Tocqueville Institution, is now legislative director for Sen. Spencer Abraham (R., Mich).

THE NEW YORK TIMES **OP-ED** FRIDAY, JANUARY 27, 1995

Abroad at Home

ANTHONY LEWIS

Reform Or Wreck?

BOSTON

In 1960 the Food and Drug Administration received an application to market in this country a tranquilizer called Thalidomide, said to induce calm and sleep with no side effects. Described as a miracle drug, it had been on sale in Europe for two years.

Dr. Frances Kelsey of the F.D.A. was given the application to review. She was cautious because Thalidomide had an unusual chemical structure. She asked the Merrell Company, which wanted to market it, for more information.

Early in 1961 Dr. Kelsey saw in a British medical journal a doctor's letter saying that patients who had used Thalidomide for a long time developed a nerve inflammation in their fingers. She wondered whether fetuses would be similarly affected if pregnant women took the drug. She asked more questions, irritating Merrell officials.

Over the previous year or two a strange medical phenomenon had appeared in West Germany and Britain. Children were born with grotesque deformities, lacking arms and legs. No one knew the reason.

Then, in November 1961, a German doctor traced the cause to Thalidomide. Women who took the drug early in pregnancy were liable to have deformed children. Thalidomide was withdrawn from the market.

An estimated 10,000 deformed children were born in Europe and elsewhere because of Thalidomide. But except for one trial distribution, the drug was kept out of the United States — kept out by a skeptical, determined F.D.A. doctor who was denounced, Morton Mintz of The Washington Post wrote at the time, as "a bureaucratic nitpicker."

If Newt Gingrich and his supporters have their way, no F.D.A. doctor like Frances Kelsey will again be able to block distribution of a drug like Thalidomide. For the F.D.A. is a prime target of the radical Republicans.

Speaker Gingrich has described the F.D.A. as "the leading job-killer in America." That encapsulates a right-wing view that delay in approving new drugs and medical devices is hurting American manufacturers.

A cautionary tale about weakening the F.D.A.

Mr. Gingrich and other critics say the agency kills not only jobs but people. On NBC's "Meet the Press" last month he showed a Danish cardio-pump that he said increased the survival chances of heart-attack victims "by 54 percent" but that the F.D.A. "makes illegal." In fact, recent medical studies have shown no more benefit from the device than from conventional cardiopulmonary resuscitation.

Two weeks ago the right-wing Washington Legal Foundation ran a full-page newspaper advertisement that called the F.D.A. a killer. It cited the cardio-pump (saying it could have saved "14,000 lives so far") and other equally dubious matters. It said the American Heart Association estimated that delayed approval of a heart defibrillator had cost "at least 1,000 lives"; the Heart Association denied making such a claim and deplored the ad.

The tone of the attacks on the F.D.A. is uncommonly brutal. Speaker Gingrich has called its Commissioner, David A. Kessler, who was appointed by President Bush, "a thug."

In all this we can see the real nature of the radical Republican strategy. The talk is of reforming Government. The real intention is to destroy many of its important functions.

Thus there are proposals to eliminate the F.D.A., replacing it with an industry-dominated agency; or to farm out the approval process to private bodies; or to let new drugs and medical devices be sold with a warning that they have not been approved.

Reform and simplification of Federal regulations *are* necessary. Some have become far too detailed and burdensome. When Washington tries to regulate minutely the practices of thousands of universities all over this vast country, for example, it is as likely to do harm as good.

But there are some things that a civilized society needs government to do. One of them is to protect its citizens from untested drugs that may do terrible harm.

In 1962 President Kennedy gave an award to Dr. Kelsey of the F.D.A. for her "high ability and steadfast confidence" in saving Americans from the Thalidomide tragedy. I do not believe that Americans really want to retreat from that standard to the age of carnival elixirs — or worse. □

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BUSINESS
RICHMOND TIMES-DISPATCH
B6 FRIDAY, JANUARY 13, 1995

Tobacco poll a matter of perception

Survey saying Americans want less cigarette regulation is disputed

BY CHIP JONES
TIMES-DISPATCH STAFF WRITER

Call it the case of the smoking poll.

The Tobacco Institute released a survey this week claiming "a solid majority of Americans oppose expanding the government's regulation of cigarettes." But the survey actually found that a majority favors more control, The New York Times reported Wednesday.

The Times' conclusion was supported by the head of a leading polling group, Louis Harris and Associates of New York.

Humphrey Taylor, chairman and chief executive of the Harris group, told The Times that The Tobacco Institute's survey questions were slanted to obtain anti-government reactions.

The Times reported that 54 percent of the 1,000 adults surveyed by The Tobacco Institute's pollsters Dec. 10-12 favor more federal regulation of cigarette sales. The margin of error was plus or minus about 3 percentage points.

Anti-tobacco lobbyists reacted gleefully.

"We're glad The Tobacco Institute is confirming what we've known all along — people are concerned about the very serious health consequences of tobacco," said American Cancer Society spokesman Tom Brandt.

" Maybe the Tobacco Institute has an anti-tobacco mole in it. "

TOM BRANDT
AMERICAN CANCER SOCIETY

The Tobacco Institute, a Washington lobbying group for such major cigarette makers as Philip Morris USA, disputed The Times' findings.

It released the poll this week to counteract an anti-smoking event staged on Capitol Hill on Wednesday that included students from John F. Kennedy High School in Richmond.

"We regret they are seriously misrepresenting the results," Tom Lauria, a Tobacco Institute spokesman, said about The Times.

The dispute centers on the newspaper's interpretation of a question asking people to rate how important they consider federal regulation of cigarette smoking.

According to The Times, 14 percent said it was their "top priority," 17 percent said it was "very important" and 23 percent said it was "somewhat important."

Adding those figures, The Times concluded that 54 percent of those polled — a majority — believe increased cigarette regulation is important.

But Lauria said the 23 percent who said more federal regulation was only "somewhat important" should not be considered part of a pro-regulation majority.

He called it "a blatant case of The Times choosing to rewrite the story in a way that enhances the anti-smoking perspective."

Brandt, of the Cancer Society, had his own theory about the fiery debate: "Maybe The Tobacco Institute has an anti-tobacco mole in it."

WASHINGTON TIMES JAN 23 1995

Poll on smoking offers smoke-and-mirrors deception

It appears that The Washington Times fell victim to the Tobacco Institute's smoke-and-mirrors attempt to mislead the public about the results of a public opinion survey it commissioned about regulation of tobacco products by the Food and Drug Administration (FDA) ("Tobacco regulation unpopular, poll finds," Business, Jan. 11). The article's headline should have said, "Tobacco industry poll finds majority supports FDA regulation of tobacco."

A close reading of the survey results reveals the following:

- Fifty-four percent of respondents thought that "increased regulation on cigarettes" was either "somewhat important," "very important" or a "top priority." By contrast, only 44 percent of respondents said that regulation of cigarettes was "not important at all."
- A majority, 65 percent of respondents, preferred to either continue or expand the federal government's regulation of cigarettes. Only 28 percent of respondents preferred to "reduce the government's regulations over cigarettes."

National polling experts found the survey to be biased. According to Humphrey Taylor, chairman and chief executive officer of Louis Harris Associates, "Any interviewer or person being interviewed would quickly come to the conclusion that this poll is hostile to the regulation of cigarettes."

Any way you look at it, the Tobacco Institute's own survey found that a majority of Americans want tobacco to be regulated. This public attitude, shared by smokers and nonsmokers, was confirmed in a 1993 Gallup survey conducted for the American Heart Association, the American Lung Association and the American Cancer Society.

Despite the Tobacco Institute's best efforts to buy the answers it wants, the truth is that most Americans want more information from the tobacco industry. They also want stronger protections against exposure to secondhand smoke, and they want the industry to stop targeting children with advertising and promotions.

The FDA is charged with promoting and protecting the public's health. Nowhere is that more urgently needed than in the area of smoking, which kills 419,000 Americans each year and adds $65 billion annually to the nation's health care bill. Tobacco belongs with the foods, prescription drugs and cosmetics that are currently under that agency's jurisdiction.

SCOTT D. BALLIN
Washington

■ Mr. Ballin is the chairman of the Coalition on Smoking OR Health and the vice president for public affairs for the American Heart Association.

— *The Editor*

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RICHMOND TIMES-DISPATCH
SATURDAY, JANUARY 28, 1995

ABC told to reveal sources

'Deep Cough' ruling is a key victory for Philip Morris

BY ALAN COOPER
TIMES-DISPATCH STAFF WRITER

The choking sound at ABC yesterday wasn't caused by tobacco smoke.

Richmond Circuit Judge T.J. Markow ordered the broadcaster to identify "Deep Cough" and other confidential sources it relied on in a February broadcast accusing Philip Morris Cos. Inc. of "spiking" its cigarettes with nicotine to addict smokers.

He also will allow the tobacco company to try to unearth the sources' identities through the travel and credit card records of reporters.

ABC issued a terse response to the ruling through New York spokeswoman Teri Everett: "We're now taking steps to have it reversed." A hearing before Markow is scheduled Monday.

TOBACCO LIBEL SUIT

Under normal court procedures, ABC cannot appeal Markow's ruling on the confidential sources until after the case is tried. Trial is set for June 5.

Philip Morris contends that ABC libeled the company on the network's "Day One" newsmagazine program.

In his opinion, Markow noted that the news media generally can protect their confidential sources. But he said the media must disclose those sources if a plaintiff can show that a confidential source has information that is relevant, cannot be obtained by any other means and is of compelling interest in the litigation.

In this case, " 'Deep Cough' was the centerpiece of the broadcast. Despite ABC's protestations to the contrary, she was the only individual presented as having firsthand knowledge of the alleged improprieties in the cigarette manufacturing process and the only one to specifically accuse Philip Morris," Markow wrote.

"Without 'Deep Cough,' ABC would have been left with what it had for over a year — public records, conjecture and unsubstantiated allegations that the tobacco industry engaged in 'spiking.'

"Because she was the only source that alleged firsthand knowledge, it was upon her credibility alone that ABC based much of its story and drew conclusions. Therefore, who she is, what she said, and what she did *not* say shaped ABC's state of mind when it chose to finally broadcast its findings."

ABC's state of mind is crucial, Markow noted, because Philip Morris can prevail only if it proves that ABC knew its report was false or broadcast it with reckless disregard for its truthfulness.

Although Markow's ruling yesterday appeared to be a

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ABC told to reveal sources

▼ SUIT FROM PAGE B1

complete loss for ABC, part of it might turn out to be a major win for the news media in general, according to Jane Kirtley, executive director of the Reporters Committee for Freedom of the Press in Arlington.

Faced with ABC's refusal to disclose "Deep Cough," Philip Morris got subpoenas issued to airlines and rental car, credit card and telephone companies of the ABC reporters who worked on the reports.

Philip Morris contended that those records belonged to the companies and not to the ABC reporters, so the broadcaster had no interest in their confidentiality.

Markow disagreed. "The court cannot and will not endorse such a practice and refuses to open what can only be described as a 'Pandora's box.' "

If Philip Morris could get such information through routine litigation procedures, "it would be an open invitation for every plaintiff in libel suits, not to mention the potential in other litigation contexts, to make a pro forma request for this type of [information] whenever a confidential source is known to exist," Markow said.

"A reporter's promise to maintain confidentiality would be meaningless if his movements while investigating were open to scrutiny to glean the identity of his confidential source."

But in this case, Philip Morris can continue to get the information from the companies because it has shown

SEEKS DISCLOSURE. Circuit Judge T.J. Markow's ruling on sources was a setback for ABC.

that the identity of the informer is essential to its case, Markow said.

Kirtley said she believes Markow's ruling is the first to "squarely recognize" that the general rule protecting the identity of confidential informers also protects, in Markow's words, "all documentary or electronically compiled evidence that is the product of the reporter's newsgathering activities."

Kirtley said she was disappointed with Markow's ruling that Philip Morris did not have to take more steps short of trying to get the reporters' travel records before it could get the identity of "Deep Cough."

She also is bothered by what she said appears to be a public relations tactic — filing a libel case in an effort to scare off the news media and whistle-blowers. "Has [Philip Morris'] reputation really been harmed by these stories?" she asked.

If ABC does not disclose the sources, Virginia court rules allow Markow to instruct a jury to disregard ABC's contention that its story was true.

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THE NEW YORK TIMES **NATIONAL** SUNDAY, JANUARY 29, 1995

ABC Must Disclose Source in Libel Suit

RICHMOND, Jan. 27 (AP) — Giving a victory to the Philip Morris Companies in a $10 billion libel lawsuit against ABC, a state judge ordered the network on Thursday to disclose the identity of a confidential informer.

The informer was used in a report last year on the news magazine program "Day One" accusing Philip Morris and other tobacco companies of spiking cigarettes with extra nicotine to addict smokers.

ABC has previously identified the informer only as a former manager for the R. J. Reynolds Tobacco Company. The informer appeared on camera only in silhouette, with her voice disguised.

Lawyers for Philip Morris had argued before Judge T. J. Markow of Henrico County Circuit Court, that learning the informer's identity was crucial to proving malice and winning its lawsuit. The judge agreed that Philip Morris needed to know what she said, whether it was correct and whether ABC knew if it was correct.

He also ordered ABC to disclose the identities of four other confidential informers.

USA TODAY • TUESDAY, JANUARY 31, 1995 •

TELEVISION

NEWS, PROGRAMMING AND PERSONALITIES

TOBACCO ROW: A Virginia judge Monday delayed until March 1 his order that ABC reveal the identity of five confidential tobacco industry sources. In a ruling last week, Circuit Judge T.J. Markow handed a victory to tobacco giant Philip Morris in its $10 billion libel lawsuit against ABC's newsmagazine *Day One*. One source, dubbed "Deep Cough," was featured in *One's* report last year that charged Philip Morris and other tobacco companies spike cigarettes with extra nicotine to addict smokers. Philip Morris lawyers have argued that learning the source's identity is crucial to proving malice and winning its lawsuit. Markow agreed and ordered ABC to reveal its sources. Now, he's allowed ABC until March to come up with arguments against his order.

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WASHINGTON TIMES JAN 30 1995

Tobacco liability plaintiffs see edge in congressional findings

By Lisa Shapiro
ASSOCIATED PRESS

INDIANAPOLIS — A liability lawsuit against tobacco companies over the cancer death of a smoker will be the first to go to trial since Congress grilled tobacco executives last spring on the dangers of cigarettes.

Michael Holland, an attorney for the dead man's family, said his case will include some information uncovered during the hearings to try to prove that cigarette makers had the ability to make cigarettes less addictive.

On his witness list is Dr. Victor DeNoble, a former researcher for Philip Morris Inc. Dr. DeNoble testified at the congressional hearings in April that a study he wrote containing strong evidence nicotine was addictive was suppressed by his employer in 1983.

The surgeon general didn't determine nicotine was addictive until 1988.

Historically, juries have sided with tobacco companies, agreeing the companies were not responsible for illness because smokers made conscious decisions to smoke despite knowing the risks.

But anti-smoking advocates said public opinion has changed since the hearings and believe juries may now be more likely to find tobacco companies somewhat responsible for smoking-related illnesses.

"People now believe in a way they just never focused on before that these guys basically lie through their teeth to sell cigarettes," said Richard Daynard, a law professor at Northeastern University in Boston and chairman of the Tobacco Products Liability Project. "I think that's going to make a big difference in jury attitudes."

Richard Rogers, who was an Indianapolis lawyer, began taking his father's cigarettes and butts left in ashtrays when he was 5 or 6 years old. By the sixth grade, he was smoking close to a pack a day. When he hit his mid-20s, he was up to three packs a day.

After hypnosis and drug therapy, Mr. Rogers finally quit on June 24, 1986. Two months later, he was diagnosed with lung cancer.

With his wife, Yvonne Rogers, he filed a lawsuit in March 1987 against cigarette manufacturers and retailers, claiming they caused his illness.

Seven months later, the 52-year-old father of three died. His wife amended the lawsuit to include charges of wrongful death and asked for an unspecified amount in compensatory and punitive damages.

Nearly eight years after the lawsuit was filed, jury selection is to begin tomorrow in Marion County Superior Court.

The lawsuit accuses R.J. Reynolds Tobacco Co., Philip Morris, the American Tobacco Co. and Liggett Group Inc. of failing to warn Mr. Rogers of the addictive and harmful properties in cigarettes before 1969, the year the federal law requiring labels on cigarette packages was strengthened.

The lawsuit also accuses the companies of negligence for promoting cigarette smoking as safe and pleasurable, but not hazardous.

"He discussed the impression that cigarette advertising had on him in depicting cigarette smoking as glamorous, creating a macho image," Mr. Holland said.

The tobacco companies predicted that, like the 20 or so other liability cases they have won, they would prevail in this case too.

"We are not legally responsible because the plaintiff chose to smoke and continued smoking knowing that smoking was a recognized risk factor for disease," said Michael York, a lawyer for Philip Morris.

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THE WALL STREET JOURNAL MONDAY, JANUARY 30, 1995

LEGAL BEAT

Disability Case Widens Fight Over Smoking

By FRANCES A. MCMORRIS
Staff Reporter of THE WALL STREET JOURNAL

When Diane Emery and Patricia Young go to court today, they will open a new front in the battle over smoking.

The women appear to be the first to go to trial with a controversial claim that, because of their respiratory ailments, they are entitled to a smoke-free environment under the Americans With Disabilities Act, legal experts say. The nonjury trial will be held in federal court in Dallas.

In their suit, Ms. Emery, who suffers from cystic fibrosis and says she can't tolerate even the tiniest exposure to tobacco smoke, contends that the Caravan of Dreams nightclub in Fort Worth, Texas, discriminated against her by allowing smoking. As a result, she says, she couldn't see jazzman Wynton Marsalis. Ms. Young, an asthmatic, claims that by allowing smoking, the club prevented her from seeing jazz vocalist Diane Schur.

Other courts haven't allowed such claims to go forward. A suit brought by a woman with lupus and parents of three asthmatic children who sought to ban smoking in several fast-food chains, including McDonald's Corp., was dismissed by a federal judge in Hartford, Conn., a year ago. (McDonald's has since banned smoking.) In 1993, a federal judge in Richmond, Va., dismissed an employment case before trial, finding that a Virginia Electric & Power Co. employee with bronchial asthma was not entitled under the ADA to a completely smoke-free environ-

Please Turn to Page B8, Column 3

Dallas Lawsuit Seeks To Consider Smoke A Barrier to Disabled

Continued From Page B1

ment. The company had allowed smoking only in designated areas.

In a similar ruling last year, the federal appeals court in Richmond found that a state employee claiming hypersensitivity to smoke wasn't disabled under the Federal Rehabilitation Act, which preceded the ADA, and couldn't take such a case to trial.

Moreover, the Justice Department views the 1990 law as being neutral with respect to smoking, an official says. The ADA guarantees the disabled access to places of public accommodation and of employment.

Ms. Emery had asked the Justice Department to issue a policy on smoking to help her fight the nightclub, but the department declined.

"It's not the federal smoke-free America Act," explains Robert Rains, a professor at the Dickinson School of Law in Pennsylvania and director of its Disability Law Clinic.

But Judge Barefoot Sanders, who will hear the case in Dallas, denied a request by Caravan of Dreams to dismiss the two women's complaint, allowing the trial to go forward.

If the judge ultimately rules in the women's favor, the decision could provide a powerful new legal weapon against smoking "and open up the world to tens of millions of people who are effectively shut out," says John F. Banzhaf III, a professor of law at George Washington University and an antismoking advocate. "Unlike the smoker who can refrain from smoking, they can't refrain from breathing."

"This is really a core purpose of the ADA – to protect people with disabilities," says Richard Daynard, a law professor at Northeastern University who heads the Tobacco Products Liability Project, a public-health advocacy group in Boston.

Edmund Johnson, the Dallas attorney for Caravan of Dreams, argues that the nightclub shouldn't have to accommodate Ms. Emery because her degenerative lung disease is so severe. And he contends that Ms. Young doesn't qualify as a disabled person under the ADA because her asthma isn't severe enough.

Robert Farr, a lawyer who respresents the fast-food plaintiffs and is appealing the dismissal of their claim, says employers and other defendants in cases like his often ban smoking to avoid a court fight. In fact, he says, insurers for workers' compensation are advising employers to go smoke-free or limit smoking to designated areas as a way to avoid claims.

But when they decide to fight, defendants typically question the severity of a plaintiff's disability, he says. "They try to portray the disabled people as zealots and as antismoking nuts trying to impose their will on everybody," he says. Instead, he says, such plaintiffs are simply "people who have to plan their lives around smoking."

Michael Metcalf, attorney for the two women, argues that the ADA prohibits the type of smoking policy the club enforces because it "tends to screen out" people like his clients who are sensitive to smoke.

"I have a client who is being discriminated against and is not permitted to gain access to a facility that the law says she is entitled to get into," he says, addressing Ms. Emery's claims.

Mr. Johnson, the nightclub's lawyer, also argues that any court order requiring smoke-free policies for restaurants and nightclubs would scare away customers who smoke.

Caravan of Dreams is owned by Texas billionaire Ed Bass, who bankrolled Biosphere 2 and helped renovate downtown Fort Worth. It currently sets aside a few rows for nonsmokers.

For Ms. Emery, who had asked the club to ban smoking for the 1993 Marsalis performance both orally and in writing, the issue is simple.

"I wheeze, I cough. It irritates my lung lining," says the 29-year-old, who takes daily medication and undergoes three to four hours of intensive breathing therapy each day.

"I have a disability," she says. Just like people in wheelchairs who need ramp access, I need smoke-free access."

THE WALL STREET JOURNAL THURSDAY, JANUARY 19, 1995

The Case of Punitive Damages v. Democracy

By ALEX KOZINSKI

Join me for a cup of coffee and a slice of pizza as we contemplate the workings of democracy. I'm afraid the coffee's tepid, though, the pizza won't be here for a while, and democracy is headed for trouble. McDonald's has lowered the temperature of its coffee because powerful government policy makers have ruled that "the coffee is too hot out there," and Domino's has canceled its 30-minute delivery guarantee because those same decision makers have concluded it causes too many accidents. Vote the bums out, you say? Sorry, the policy makers here were unelected, unaccountable, temporary tyrants: juries imposing often staggering punitive damages.

Put to one side the host of other arguments about punitive damages, and consider a more fundamental issue: their impact on the way we govern ourselves.

While punitive damages date back at least to the 18th century, until recently the awards were small and rarely even sought. But as Justice Sandra Day O'Connor has noted, "Recent years . . . have witnessed an explosion in the frequency and size of punitive damages awards." What was once a very limited legal tool used in cases of intentional torts like battery and slander has become, in the words of the president of the California Trial Lawyers Association, a means "to deter despicable acts by corporate America."

Consistent with this view, jurors across the country are regularly urged to impose punitive damages large enough to "send a message" to the defendant and others similarly situated. Consider the following jury instruction, approved in 15 states: "[I]f you believe that justice and the public good require it, you may . . . award an amount which will serve to punish the defendant and to deter others from the commission of like offenses." Elsewhere, the same message is conveyed by plaintiffs' lawyers in their jury arguments.

Interviews with jurors in case after case reveal that they have taken these admonitions to heart and have imposed punitive damages to "teach 'em a lesson" or "send a message." (See sidebar.) The message juries send is basically "Stop." Implicit in this is a judgment that the conduct in question is not merely tortious, meaning that those engaging in it should pay compensation when someone gets injured, but so wrongful that it should be abandoned altogether.

There is an important difference. When juries award compensatory damages, they force manufacturers to internalize the cost to society of their activities; the price of the product may go up, but it will generally still be available to those willing to pay the higher price. Using punitive damages to demand that a product be taken off the market altogether, or changed in ways that will make it less useful, reflects a judgment that the benefits derived by those who use the product don't justify the risk of injury.

The Jurors' Message

- The jury in the McDonald's coffee case awarded Stella Liebeck $2.7 million (later reduced by the judge to $480,000) to deliver a message that, as one juror put it, "the coffee's too hot out there."
- The foreman of the jury that assessed the largest punitive damage award ever explained that its $5 billion for the Exxon Valdez oil spill was "saying to the Exxons of the world, whatever it takes, you're going to clean up your mess and you're going to be punished." He warned, "we're going to be watching you and we don't want it to happen again."

- To send a message to Hilton Hotels Corp., a jury hit Hilton with $5 million in punitive damages for failing to prevent drunken aviators from molesting a woman attending the infamous Tailhook Convention.
- According to an article in the Arizona Republic, an Arizona jury stuck a Phoenix bowling alley for $5.8 million for serving too many beers to a man who then crashed his car into a young woman and killed her. The verdict "was intended to send a clear warning to Arizona tavern operators about the legal perils of serving drinks to intoxicated patrons."
- A San Diego jury awarded $475,000 in punitive damages for misrepresentations and violations of consumer protection laws, after a car dealership asked a customer to increase the down payment on a used Cadillac because his credit hadn't been approved. According to its foreman, the jury wanted to "get the word out that anyone purchasing an automobile should get a fair shake."

—Alex Kozinski

Of course, we make judgments like these all the time, but normally we do so through legislation or regulation. Having such judgments made by juries, in the emotion-laden atmosphere of personal injury trials, raises issues that deserve careful exploration.

- Legislators are popularly elected and represent a variety of geographic and other interests. The political process ensures that those making important policy decisions at least roughly reflect the views of those who will be bound by them. By contrast, it is often very difficult to tell the policy views of jurors until they actually render a verdict; any group of six or 12 individuals may have views wholly unrepresentative of the community at large.
- Legislative judgments are made in a public arena and are subject to political checks. If a legislature were considering whether to prohibit restaurants from selling coffee hotter than 160 degrees, all concerned—coffee-machine vendors, coffee distributors, restaurant operators and the coffee-drinking public—could provide input.

Trials are much different. Only the parties before the court are allowed to present their views; jurors are instructed to disregard input from newspapers or outside parties—including parties that may have a legitimate interest in the outcome. Jury deliberations are kept secret until after the verdict, so it's difficult to tell what factors—legitimate or not—influenced the decision.

- Legislators are repeat players in the political process, so no single vote determines the degree of influence they will exercise. An unsuccessful legislative initiative can be taken up again in future years. Jurors are brought together to consider only the issues raised by a single case. If they fail to act, their influence is forever lost. The pressure to over-legislate, or to legislate based on incomplete information, is great. While most juries will resist the pressure, it only takes a single runaway jury to send shock waves through an entire industry.
- Legislative judgments are geographically bounded. If New Mexico limits coffee temperatures to 160 degrees, coffee-drinkers in New York can still get their java piping hot. It is a strength of our federal system that states can serve as laboratories for experimenting with various legislative judgments. Over time, we can compare the experience of states and see whether the reduction in burns merits forcing consumers to suffer lukewarm coffee. Punitive damage awards know no borders: As the McDonald's coffee case illustrates, jurors are encouraged to base the punitive damages award on the defendant's nationwide revenues for an activity, a measure obviously designed to force a change in policy well beyond the locality or state where the lawsuit is brought.
- Legislatures issue relatively precise edicts—for example, "You may not sell coffee hotter than 160 degrees." Jury ver-

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dicts are elliptical in the extreme. After the award in the *Liebeck* case, McDonald's is painfully aware that 180 degrees is too hot, but how can it tell what temperature is OK? Will it be insulated from punitive damages by turning its pots down to 175 degrees, 170, 165? There's no telling. McDonald's isn't safe even if the next jury says 170 is fine, since that jury's verdict isn't binding on future juries.

• It is often devilishly hard to decide whether to ban an activity altogether, or to permit it subject to payment of compensation for those it hurts. The sad reality is that many very useful activities and commodities—airplane and automobile travel, gas and electricity in the home, to name only a few—carry the risk of injury and death for many people. Nevertheless, such activities are allowed, even encouraged, because we as a society have decided that our lives would on the whole be far worse without them. Such "tragic choices," as my colleague on the Second Circuit, Judge Guido Calabresi, calls them, are an inevitable aspect of modern life; legislators and regulators make them on a continuing basis, often adjusting prior judgments in light of new information.

Punitive damage awards, imposed on activities that are permitted—often approved—by legislators and regulators, run at cross purposes with those regulatory judgments. Tort litigation in general, and punitive damages in particular, have made unavailable in the U.S. products that regulatory bodies have found safe, such as medicines approved by the Food and Drug Administration and small airplanes approved by the Federal Aviation Administration. Moreover, even when the product isn't entirely prohibited, legislation by juries tends to stifle innovation: Manufacturers are extremely wary of introducing improvements to product designs that have survived a barrage of litigation, lest they invite a new wave of lawsuits.

None of this calls into question the constitutionality of punitive damages—a matter the Supreme Court has taken up on various occasions over the past several years. It does, however, pose serious questions about the workings of our government. Juries can be remarkably efficient at sorting out the often complicated facts presented during the course of a trial, and jury service gives ordinary citizens an opportunity to participate in the administration of justice. However, the emerging trend of empowering juries to act as mini-legislatures is at odds with the central democratic principle that policy questions are decided by the people's elected representatives, while small groups of citizens—drawn essentially at random—apply those judgments to individual cases.

Far from carrying out the will of the people, juries imposing punitive damages may be usurping the role of the legislature, thereby benefiting a few plaintiffs and their lawyers, but denying the large majority of the people goods and services that make life safer, easier and more enjoyable. To those of us who believe that, despite its faults, democracy is the best way to govern ourselves, this should be a matter of profound concern.

Mr. Kozinski is a federal judge in California. His law clerk Mark Ouweleen helped in the preparation of this article.

UPsw 01/20 1635 Bush declares emergency on tort reform

AUSTIN, Texas, Jan. 20 (UPI) -- Gov. George W. Bush Friday issued an emergency proclamation giving the Texas Legislature immediate authority to reform the state's civil justice laws.

"We must put a stop to the frivolous and junk lawsuits which clog our courts and threaten the survival of many small businesses," said Bush, who made tort reform a top priority in his campaign.

The proclamation allows the Legislature to consider and enact tort reform measures during the first 30 days of the session.

A package of tort reform measures has already been filed in the Texas Senate and hearings scheduled for early next month.

The bills would limit punitive damages to plaintiffs, discourage frivolous lawsuits, end judge and court shopping for friendly venues, prohibith the double recovery of damages, reform the Texas Deceptive Trade Practices Act and current laws on joint and several liability.

The legislation is also designed to lower health care costs through medical malpractice reform and put an end to "junk" lawsuits filed by Texas prison inmates.

Bush said, "Ending lawsuit abuse will encourage new jobs and ensure that the truly injured get prompt access to the courts. When Texans are injured, they are entitled to swift justice and prompt compensation for their actual losses."

Bush said the 1994 elections produced "tremendous momentum" for tort reform, and that he hopes to capitalize on that momentum by declaring it an emergency item that the Legislature can address quickly.

January 13, 1995
10:00-11:00 PM (ET)
ABC-TV
20/20

Hugh Downs, co-host:

It's the American Dream of justice. You feel you've been wronged, you go to court, you win your case, and you walk away with damages; money to compensate you for your troubles. That's the way the system works, and that is what happened to the people you're about to meet. So, why are they unhappy? Well, that's what this story is about.

Barbara Walters, co-host:

These workers are among thousands who won billions of dollars after they were exposed to a dangerous product at work. But who got rich on the settlements and who suffered? Not the people you might expect. John Stossel's report raises an important question. Just whom is our legal system designed to help? By the way, if there are any lawyers out there watching, better keep an eye on your blood pressure.

John Stossel reporting:

How many millions of dollars would you have to have to buy the Baltimore Orioles? And, maybe the Tampa Bay Buccaneers, too; to occupy an entire floor in this modern skyscraper? Or own a nine thousand square foot home in this exclusive South Carolina island? Well, if you're this lawyer or that one, you can have all of those things and more, largely because of the world's most expensive and longest court battle. A battle that's been waged now for almost a quarter of a century. And it's far from over.

Just before Christmas, when a judge rules on just one more phase of this battle, a court noted that another fifty-five years is still needed to settle other victims' claims. This is a story about winners and losers, and there are plenty of losers, injured workers and their families, bankrupt companies, unemployed workers. And the big winners? Some very rich lawyers.

This battle began because of asbestos, the natural substance that may be the world's best insulator. Though asbestos frightens us today, and the EPA ordered its use phased out by next year, twenty years ago it was common to everyone's life. It was in hair dryers, ceiling tiles, skyscrapers, ships, space ships, brake lines. It's still being put in brake lines. But in large doses, asbestos, if you inhale it, is deadly. Because of that, today, thousands of asbestos workers and their families are sick.

Ed Kowalsky (Worker/Johns-Manville): They never told us it was dangerous.

Stossel: Ed Kowalsy worked for Johns-Manville, the world's biggest maker of asbestos. He spent years breathing what looked like snow.

Kowalsky: I worked in what seemed like a flour mill. Everything was white like snow.

Esther Myers (Asbestos Victim's Widow): My kids and the neighbor's kids used to go down there pick it up and play snowballs.

Kowalsky: And they would put their tongues out and catch the white flakes that came down, not knowing that it would cause cancer or illness.

Woman (Unidentified): If it melted it was snow, if it didn't it was JM, they did not call it asbestos.

Kowalsky: It makes me mad. They should all be locked up, every one of them. They knowingly exposed their workers and their families to the killer asbestos.

Stossel: Of course, at the time, it wasn't widely known that asbestos was a killer. The government hadn't banned it and no one knew for sure whether people exposed to small amounts were at risk. Still, by the mid '70s, evidence of the risk was growing. Johns-Manville and other companies were getting out of the business.

It was only then, afterwards, that the law suits started pouring in. One stated purpose of such suits was to stop companies from doing bad things. Well, these law suits didn't really do that because the companies had already stopped. Another purpose is to compensate victims, take money from the bad guy and quickly give it to the people they've harmed. As you see, in most cases that's not what happened either.

Worker (Unidentified): We had peanuts after lawyers got through with us.

Stossel: Hundreds of thousands of law suits were filed on behalf of asbestos victims. The courts were so overwhelmed that the cases were bundled together into class action. That's when a few select lawyers represent thousands of clients in a single case. In that case I mentioned earlier, a handful of lawyers represent some five thousand clients. Are all of them really asbestos victims? Maybe not. Being a client doesn't automatically mean you're sick.

The lawyer, Peter Angelos, recruited most of his clients in union halls, in factories, in Maryland. Other lawyers advertised for theirs. (Graphic of a lawyer's ad) Even people who are not sick are being signed up. (Graphic of ad 'Call even if you are not suffering from any symptoms of injury...') The lawyers argue, one day they might get sick. Well, they might, but almost all of us have some asbestos in our lungs just from breathing urban air, being near a car. That doesn't mean we'll get sick.

Facing thousands of claims from workers, sick or not, Manville and sixteen other companies just declared bankruptcy. Where there were once jobs, there are now closed factories. Some of the bankrupt companies continue to operate in smaller form. Some, like Johns-Manville re-emerged from Chapter Eleven to make all kinds of non-asbestos products. (Visual of Manville product called Celite)

But thousands of jobs, jobs that had nothing to do with asbestos have been lost. The asbestos companies did set billions of dollars aside for the victims and their lawyers. But the litigation costs were so high that most (Cont'd)

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victims didn't get much. These workers were represented by a number of different lawyers.

Thomas Payne (Asbestos Victim): As of today, I have received seven settlements, from seven different asbestos companies, and it does not total fifteen thousand dollars.

Harlis Honaker (Asbestos Victim): With all totaled, I got about five or six thousand dollars, from all the companies.

Victor Safchuck (Asbestos Victim): I was offered twelve thousand dollars about a year ago. And, of which for thousand dollars the lawyer would have got that.

Stossel: The people who have really made out have been the lawyers. In most cases they didn't even have to go to trial, if they kept about a third of all settlements as their fee; contingency fee, they call it.

We're told lawyer Ron Motley will collect around three hundred million dollars. Motley won't say what the real number is. Peter Angelos won't say either, but we're told he'll get several hundred million, too. All the lawyers are secretive about what they'll get. They point out that if they hadn't won, they'd get nothing. A law review article says some are earning the equivalent of thirty thousand dollars per hour.

In any case, under the contingency fee arrangement, Angelos should make more than enough to go shopping for that football team, to go with the baseball team he's already bought.

Peter Angelos (Plaintiff's Attorney): That arrangement has been prevalent in the United States of America for a hundred and fifty years. That's the system. That's the American system.

Stossel: But the result is you have one of the most lavish offices in Baltimore, you've got a marble conference table, you've got...

Angelos: It's not marble.

Stossel: It's not marble?

Angelos: No.

Stossel: Granite?

Angelos: Right.

Stossel: You've got these lavish offices.

Angelos: Yeah.

Stossel: You've bought yourself a toy, a baseball team. You're rich, companies are broke, and the victims don't get much.

Angelos: That isn't true. The last thing you said is not true. Our clients have recovered tens of thousands of dollars.

Stossel: Even tens of thousands versus what you have...

Angelos: But I'm proud and satisfied to say that whatever profits that we enjoy we have derived by helping people, not injuring or killing people.

Stossel: But you are injuring people. Seventeen big companies closed down, thousands of people are out of jobs, so that you can get rich.

Angelos: The purpose of bringing litigation is not for me to get rich, it was for the purpose of compensating the victims of these companies. If some people have lost their jobs because of that, certainly we did not intend that result. But, nonetheless, we can't be held responsible for that.

Stossel: With most big asbestos makers bankrupt, lawyers began to look for others to sue. They went after smaller companies like Keene Corporation. Keene is now an empty shell employing just six people in nearly empty offices. (Visual of Keene Company offices) Keene was once a thriving company employing four thousand people, making all kinds of useful things. But years ago, company president Glen Bailey made a big mistake. He bought a little company that made ceiling panels, and the panels contained asbestos. (Visual of the Baldwin-Ehret-Hill, Inc. Co.) Now this was just a tiny part of Keene's business but, under American law that doesn't necessarily matter. You can sell ten dollars worth of asbestos and still be responsible for millions of damages caused mostly by other producers that are already bankrupt. Hey, they're gone, you're not, so you have to pay.

Glen Keene (Keene Co.): We've been sued to death, we've been tortured to death.

Stossel: Tortured he says, by lawyers for people who helped build America's war ships during World War II, who claim asbestos from Bailey's product made them sick. That's not fair, says Bailey, I didn't even own the company when the harm was done.

Keene: All this happened twenty-five years before we started the company. It's obscene, it's ridiculous.

Stossel: But, it's the law. There is a dispute over how much Bailey knew, and when. Motley accuses him of hiding assets, among other things. Keene denies it and now he's suing Motley and Angelos, and other lawyers.

Keene: People can't believe it when you tell them that you bought a company for eight million dollars, and you spent five hundred and thirty million dollars on litigation, with three hundred and twenty million dollars going to lawyers. Think of that. lawyers got it.

Ron Motley (Plaintiff's Attorney): I agree that for every dollar that an asbestos company put into the settlement, sixty-five cents goes to people other than the victim. But, that doesn't mean that sixty-five cents goes to the plaintiff's lawyer. Thirty-five cents of that dollar goes to Mr. Bailey's transaction costs to pay his lawyers.

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Stossel: Oh yes, Bailey's defense lawyers are making out, too. But I should point out that insurance paid most of the five hundred million. Bailey calls the whole process, legalized extortion.

Bailey: Let me say that I walk into your store and I say give me fifty bucks or I'm going to throw this brick threw your window. Pretty clear.

Stossel: That's extortion, but suppose you...

Bailey: But suppose somebody walks in and says, look I've got eight thousand claimants here and I'm going to sue you unless you settle with me. And, by the way, I may win only a half of one percent, but if I do it's going to wipe you out. And that's what I mean by extortion.

Angelos: Well, I think they deserve to be bankrupt. Any company that would knowingly produce and market a product which they know to be harmful to human beings, should be bankrupt.

Stossel: But, Glen Bailey didn't know.

Angelos: Oh but, Glen Bailey did know.

Stossel: But why would he have bought it?

Angelos: Well, you'll have to ask him that question. Apparently,...

Stossel: Well, he says he didn't know.

Angelos: Well, that is what he says.

Stossel: He knowingly bought a company for eight million dollars when he was going to have to shell out five hundred million to people like you?

Angelos: Well, in the first place, he didn't shell out five hundred million dollars to people like me. I might say that if he did pay the five hundred million dollars it serves him right.

Stossel: All this, of course, will have to be resolved in court, expensively. At one point, Bailey says he was spending eight hundred thousand dollars a week on asbestos litigation. In all, American firms have spent nine billion, so far. (Graphic of newspaper articles on asbestos settlements) And about six billion of that has gone to the lawyers. And what has the litigation accomplished? Well, some victims have been paid, that's true; though it's taken years, and many did not live long enough to collect. Thousands are still waiting. Even some of the lawyers admit the system doesn't work well.

Motley: My motivation now is to bring the asbestos law suits to an end; to set up an out-of-court settlement procedure where people can get paid within six months, of their diagnosis, get paid full money, and the lawyers take a lot less.

Stossel: Lawyers taking less would certainly help. In the meantime, the cost to America has been great. Cities lost industries, people lost jobs, and we now pay more for the things we buy. Insurers now charge more to cover liability risks, and companies passed that cost on to us.
It appears that you feed off of productive members of society.

Angelos: That's ridiculous, that's ridiculous.

Stossel: All these bankrupt companies--you feed off of them.

Angelos: Let me tell you something. If it wasn't for lawyers, if it wasn't for the American lawyer, your basic civil rights today would be gone but for the legal profession. Sometimes stop and think. Where would you be when confronted by a police officer who unjustly accuses you of a crime. Where would you be if someone runs a stop sign, demolishes your car and leaves you helpless in a wheelchair. Where would you be, or any American be without the presence of the well-trained, well-committed American lawyer?

Walters: Well, I'm not going to ask you where you'd be. But it seems to me in watching your reports that you don't like lawyers very much.

Stossel: That's not true, half of my friends are lawyers. From my years of consumer reporting, I often saw people who were ripped off by a business and they go to a lawyer for help. And they later felt more ripped off by the legal system. I know of no other business where the customer so consistently gets so little, but get charged so much.

Walters: But there are pro bono lawyers, there are lawyers...

Stossel: That's a small part of the business.

Walters: But were these men doing anything illegal?

Stossel: No, I'm not signaling them out for that. There are lots of class action lawyers who do this kind of thing. They just made more than most. But, in many class actions, the lawyers get a lot, the customer gets very little. It's just the system.

Walters: Well, this certainly does seem to be disgraceful. But, at least, we know how you stand, in general, on lawyers. I hope you don't need one too soon.

Stossel: Me neither.

Walters: Thank you, John.

# # #

BROWN & WILLAMSON TOBACCO CORP.'S COURT BATTLE CONTINUES

From The Courier-Journal (Louisville, KY), Date: 01/16/95
By ANDREW WOLFSON

Brown & Williamson Tobacco Corp. may finally have to produce in court the sensitive internal documents it says were stolen by a former paralegal.

Rejecting B&W's contention that the documents were stolen and protected by attorney-client privilege, Jones Circuit Court Judge B.J. Landrum ordered the company to produce the materials for his private inspection. He will decide whether the documents can be used in the suit, which names Brown & Williamson and 17 other defendants.

The ruling Thursday came in a $650 million suit brought by the estate of Burl Butler, a barber and non-smoker who claimed he got lung cancer after 30 years of inhaling smoke from his customers' tobacco. He died last May 7 at age 60.

The suit claims Butler would have imposed a no-smoking policy in his shop had he known the risks of passive smoking. His attorneys have said he imposed such a policy the day he was diagnosed with cancer.

Arguing against producing the documents, Brown & Williamson told the judge the hundreds of memoranda and reports cast no light on the issue of second-hand smoke.

But lawyers for Butler's estate claimed the documents would be relevant even if they show only that components of ``first-hand'' smoke cause cancer and that nicotine is addictive. ``That would prove that our client's customers were addicted and had no choice but to continue to smoke in his shop,'' said plaintiff lawyer Cindy Lott of Jackson, Miss.

Professor Richard Daynard, chairman of the Tobacco Products Liability Project at Northeastern University, said Landrum's ruling could be influential in other cigarette liability cases. ``They cast doubt on everything the companies said they knew,'' he said.

B & W contends the documents were stolen by Merrell Williams and leaked to the news media. The Courier-Journal and other news outlets have reported that materials show B & W knew decades ago that nicotine was addictive and that executives funneled potentially damaging documents to lawyers to keep them secret.

Landrum held that the plaintiffs had made a preliminary showing through news accounts and congressional testimony that the tobacco company's lawyers may have been involved in perpetrating a fraud, crime or other wrongdoing. He said he could determine whether the documents were legitimately privileged only by reading them.

B & W spokesman Tom Fitzgerald and Gordon Smith, its Atlanta-based lawyer, didn't return phone calls.

Received by NewsEDGE/LAN: 1/16/95 9:39 AM

Imperial Tobacco <IMS.TO> says will fight lawsuit

TORONTO, Jan 16 (Reuter) - Imperial Tobacco Ltd said it will fight a C$1 million class action suit lodged against three tobacco companies by smokers who say they have suffered damages from cigarettes.

Three Canadian smokers on Friday filed the action in the Ontario Court's general division against Imperial, a wholly owned unit of Imasco Ltd <IMS.TO>, Rothmans Inc <ROC.TO> and RJR Nabisco Holding Corp's <RN.N> RJR-MacDonald Inc.

"We deny the accusations referred to in the media and we intend to vigorously defend Imperial Tobacco's record and conduct," Imperial said.

"We are confident that the courts will ultimately reject these claims," the company said.

The three plaintiffs claim to be addicted to cigarettes and are seeking "aggravated, punitive and exemplary damages" for their injuries.

Newspapers said it is believed to be the first tobacco-related class action lawsuit in Canada.

-- Toronto bureau (416) 941-8100

Received by NewsEDGE/LAN: 1/16/95 1:25 PM

RTf 01/17 1624 US senators plan EPA risk assessment bill

WASHINGTON, Jan 17 (Reuter) - Three senators plan to offer a bill requiring that risk assessment studies be done before Environmental Protection Agency regulations are adopted.

Republican Senators Frank Murkowski of Alaska and Trent Lott of Mississippi and Democrat Bennett Johnston of Louisiana plan to introduce the measure, which came up last session as an amendment to legislation that died.

Murkowski's office in a statement said the bill "is not intended to reduce true health and environmental protections, but to make sure that regulations do not reduce American competitiveness and reduce our standard of living needlessly."

Murkowski, Senate Energy and Natural Resources Committee chairman, spoke at the first meeting of a caucus on regulatory reform which he said has 35 House members and 11 Senate members.

The Senate Energy Committee will hold hearings soon on the measure, which Murkowski said he hopes will move through Congress quickly.

His spokesman said the initial bill will just deal with EPA regulations, but he said it may be expanded to cover more regulatory agencies "at the committee level."

"Agencies must act on those findings, focusing their limited resources on the most serious, most cost-effective strategies to fight the highest risks," Murkowski said.

Environmentalists have criticized the risk assessment measure as a way to kill regulations through delays and costly studies.

REUTER

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RTna 01/17 1605 Cigarette-maker says U.S. smoking studies flawed

WASHINGTON (Reuter) - The cigarette-maker R.J. Reynolds Tobacco Co. told the Labor Department Tuesday that studies used to support its proposed nearly-total ban on smoking in the workplace as a health hazard were flawed.

It made the comment at a hearing the Occupational Safety and Health Administration (OSHA) is holding on the plan to ban smoking in such workplaces as factories, restaurants and offices, with specially ventilated areas the only exception.

Reynolds said in a statement that the rule would likely result in total smoking bans and to set aside special areas "would be too great for most employers to bear."

The Labor Department proposed the curbs last April, saying "we believe that the evidence we have before us supports our conclusion that air contaminants present a significant risk to employees working in indoor environments."

Chris Coggins, a Reynolds scientist, told OSHA, an arm of the Labor Department, that the studies used the wrong test material and the concentrations used were inappropriate.

"Rather than use ETS (environmental test smoke) or a surrogate, most of the studies used fresh mainstream smoke, which is known to be physically and chemically very different from ETS," Coggins said.

He added that previous testimony showed that "the smoke concentrations used in some of the studies were 'phenomenally high.'"

Coggins added that "studies without major drawbacks were only considered in a cursory way, if at all, by the agency."

Those studies showed the toxicological effect of aged and diluted sidestream smoke was "extremely minimal -- even at massive exaggerations of real-world ETS concentrations."

Coggins said the only change found in smoke-exposed rats was a very slight thickening of the lining inside the tip of the nose and no changes in the lungs or any other organ.

He said similar findings were reported by German researchers, backed by a consortium of cigarette makers, who found no responses at all in smoke-exposed hamsters.

Reynolds said in its statement that indoor air quality was an important issue and additional safeguards might be needed, but, "there is no scientific or public health justification for singling out workplace smoke for federal control."

It said that for OSHA to adopt a workplace standard, it must must find that second-hand smoke posed a significant risk, and "the available data do not support such a finding."

REUTER

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CONNECTICUT POST Saturday, January 21, 1995

ANOTHER VIEWPOINT

Hasn't America gone too far with ban on cigarette smoke?

The ban on cigarette smoking has reached epidemic proportions, giving rise to a new industry, a variety of no-smoking alliances (some of them government funded), that are providing its promoters lucrative monetary returns; giving politicians an "out" from more pressing legislative issues that are in dire need of correction: and giving the bureaucrats (Occupational Safety and Health Administration, Health and Human Services, Environmental Protection Agency, surgeon general and the judicial system) agendas that keep them busy at the expense of more pressing health matters. Here we have four agencies flogging the same horse to death, as though that were the only health hazard extant in our nation. Right off hand I can name one that cries for attention: The picture of New York's garbage barges cruising the northern and southeastern sealanes looking for a place to dump their excrement and garbage, which at first evoked a comedic response, immediately followed by a mental picture of humanity being overwhelmed by its own refuse, evoking alarm and dismay. And what about the disposal of nuclear wastes?

OSHA should be giving more stringent attention to nuclear fallout effects on employees, what with the numerous leakages, dumping of toxic elements into the air, rivers, and underground, and other malfunctions in nuclear plants, which are sloughed off by plant operators as not dangerous. A court case instituted eight years ago by 12 employees of a nuclear plant, eight of whom have since died due to job-related cancer afflictions, was recently dismissed by the judge on the basis that some of those employees were also smokers. Now I ask you — which of the two perils is more lethal, pernicious and rapid?

It seems like only yesterday that corporations' studies on cigarette smoking in the work place and its effect on production found that on-site smoking increased production, hence the freedom to smoke while at work.

The no-smoking craze has created some insidious monsters: the unlegislated assumption of power by some government agencies, and the power of one individual over another. Make no mistake that the last one is not a power play. Just note the glimmer of gloat and expression of satisfaction in the eyes and on the face of one who has asked you not to smoke in his/her presence, after you have complied, and in your own home. These individuals also have their priorities upside down: The nonconforming nations with nuclear power in their hands are more likely to blow up tens of thousands of us in one huge puff of atomic energy than will the puffs of tens of thousands of cigarettes.

There are also the invidious aspects of OSHA, HHS and EPA that are creating an "untouchable" class in the good old U.S., promoting sociological disorders of psychological and social nature. (See Mike Royko's column, *Connecticut Post*, April 4, 1994). One wonders if the promulgators of these programs have the intellectual capacity or the conscience to realize the extent of the attempted heinous edicts emanating from their agencies: Some 60 million Americans forced out of places of employment to the outside of buildings, like corralled cattle, placed in odium, unpopularity, resentment, ill will and unfair discrimination, which last adds insult to injury by unfair state and federal taxation. It's time for another kind of "T" party.

Philip Morris' suit against the EPA (from which EPA sought immunity) cites that EPA chose to omit the largest study ever conducted on the issue of environmental tobacco smoke (ETS), a study partly funded by the National Cancer Institute, which reported no overall statistically significant increased risk among non-smokers exposed to ETS.

"The EPA conclusion. That's wrong as a matter of law and as a matter of science. The court's ruling to dismiss the EPA's claim of immunity is the first step in setting the record straight." So stated Steven Parish, general counsel for Philip Morris U.S.A. Of the 30 studies included in an EPA report, 24 also showed no statistical significant risk of lung cancer among non-smokers, but the EPA took these studies and simply manipulated them to support its pre-conceived notions. The EPA conducted no original studies of its own.

The EPA is also intimidating restaurant owners by asking them to sign a "memorandum of intent" in which the owners agree to ban smoking in their premises. The "memorandum" does not state that the EPA has no authority to ban smoking. Is this a case of EPA assuming powers without basis in fact?

Strangely enough, the government still subsidizes the tobacco-raising farmers, nor has it convinced the Indiana hemp growers to cease and desist: manicured hemp produces marijuana, netting the farmers $70,000 per bushel as compared to $2.50 per bushel for corn. (Paul Harvey, *Connecticut Post*, Aug. 27, 1994). Seems like a division of labor is called for among the government agencies, with a meeting of minds between them and the politicians and

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(Cont'd) researchers; they should get their act together. Time was when manipulating statistics was the prerogative of politicians, which the voters made allowances for. But when government agencies use research to mislead and disorient millions of citizens the act verges into crimes against humanity. One wonders if there is basis for a class action suit.

The most puzzling part of this whole scenario is the last population census which indicated that the age group of 60-80 years has increased over that of the previous 10-year census, those born in the 1920s and 1930s. This is the group that lived through the era of cigarette smoking at its highest level, with more than 50 percent passively inhaling; when the criterion of a successful social gathering was based on the thickness of the blue haze floating above; and children were born to smoking mothers and fathers. Statistically speaking, it seems like 100 percent of that age group should have been wiped out completely. So how come they're still here? Ye Gods, it's taking them a long time to go!

Nel Klimaytis
Bridgeport

January 23, 1995 ■ Crain's New York Business ■

VIEWPOINT/OPINION

The city is all puffed up over smoking legislation

JAMES BRADY

This is great!

In a page one story, the *Times* announces: "The flu and cold season has singled out New York with particular fury this year."

The MTA is studying an increase in transit fares. City revenues are running behind projections with deficits mounting. Where to cut, where to cut? Our beloved Guv is thinking about naming Peter Kalikow to a big post, possibly running the MTA, the same Kalikow who rode the *New York Post* into financial ruin as well as losing money on his own real estate business.

And where is the city now expending its energies and efforts in this winter of our discontent?

They're going to start arresting New York restaurateurs who let customers light up a Camel. Or even, a Herbert Tareyton.

This has gotten people so exercized that *Post* columnist Taki announced he will from now on smoke not one but three packs of cigarettes a day in defiance. That this could possibly kill good Taki does not, in his righteous indignation, seems to have occurred to him. But never mind. You can love Taki without ever understanding what he's talking about in his column.

More rational in her response to the latest fiat from the city is Elaine Kaufman of Elaine's restaurant. "It is my business to make my customers more comfortable, and not to provide them with moral instruction."

What has Taki puffing away madly and Elaine writing letters to the editor and me fuming (though smokelessly), is this draconian new anti-smoking law.

The City Council produced a bill, crafted by Speaker Vallone, signed by the mayor (there's blame enough to go around), that decrees, starting in April, that smoking in certain places, or permitting smoking in those places, will be a crime. The schools don't educate, madmen stroll away from the mental hospitals, drugs are out of control, race relations are lousy, children are having children and the City Council is spending its time on a guy in the '21' Club lighting a cigar?

Movie scripts for the Three Stooges made more sense.

Part of the insanity is this: the federal government subsidizes tobacco farmers to keep on growing the stuff. Official stamps are issued and taxes are collected on the sale of tobacco products.

There are no laws against selling butts to adults. Tobacco is not an illegal substance. But if you smoke it now in this city or permit it to be smoked in an establishment you own or manage, you will be breaking a law. You will be a criminal.

There has not been such a preposterous notion since Prohibition. And we all know how well that turned out, don't we?

And it isn't just restaurants. Sporting events and concerts and the like, even those held outdoors, are to be controlled. Just imagine, 60,000 people at Shea to watch a ball game, 70,000 at the Meadowlands for Mick Jagger, and the ushers are going to begin removing people who smoke? For God's sake, has there been a single rock concert in history where half the crowd wasn't smoking pot? No one gets busted for smoking grass, which is illegal, but now they're going to crack down on the old Marlboros?

This is unenforceable and absolutely stupid.

And I'm not a smoker. I quit five or six years ago and agree smoking is no good for us. I am not quite convinced second-hand smoke is as lethal as they claim. Not in a city where a couple of million cars and hundreds of thousands of city buses and big trucks are pumping out the old pollution day and night. But even if I concede the case, is smoking tobacco really something you can legislate out of existence at the same time the government continues to pull in revenues based on its sale? You really can't have it both ways, you know.

2041128914

Culture

GIULIANI, SMOKE THIS

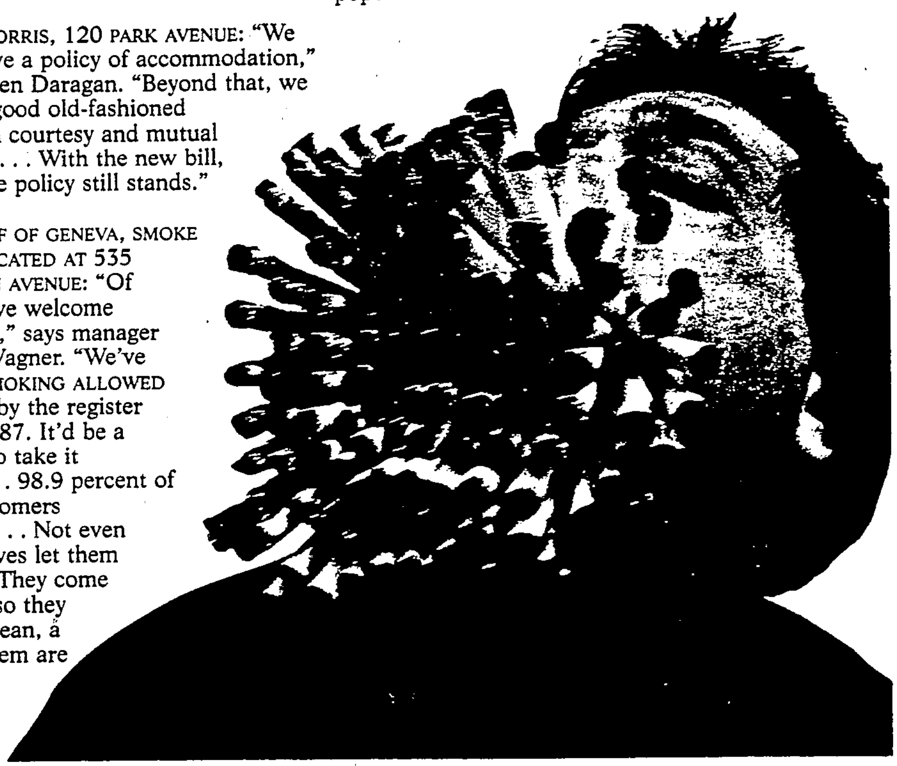
ON APRIL 10, THE DAY NEW YORK CITY'S allegedly draconian new Smoke-Free Air Act takes effect, there will still be places to smoke. There will, in fact, be places that *welcome* smoking.

RJR NABISCO, 1301 AVENUE OF THE AMERICAS: "We are in full compliance of all appropriate regulations," says spokeswoman Carol Makovich. "But we feel we have a great spirit of accommodation here in our office."

PHILIP MORRIS, 120 PARK AVENUE: "We truly have a policy of accommodation," says Karen Daragan. "Beyond that, we rely on good old-fashioned common courtesy and mutual respect. . . . With the new bill, our same policy still stands."

DAVIDOFF OF GENEVA, SMOKE SHOP LOCATED AT 535 MADISON AVENUE: "Of course we welcome smokers," says manager Diana Wagner. "We've had a SMOKING ALLOWED sign up by the register since 1987. It'd be a shame to take it down . . . 98.9 percent of our customers smoke. . . . Not even their wives let them smoke! They come in here so they can. I mean, a lot of them are men whose wives are out shopping; they come in to smoke . . . I bring 'em a cup of coffee. Not let them? I can't do that!"

BEEKMAN BAR AND BOOKS, COCKTAIL LOUNGE AT 989 FIRST AVENUE: "You wouldn't know by our place that anyone in this city has a problem with smoking," says owner Mark Grossich. "People know that we encourage —or, rather, are friendly to— smokers. . . . I've been getting calls from the media all day; I guess we've become the poster boy for the smoking population."



Globe Photos.

FRENCH ROAST, RESTAURANT AND COFFEE BAR AT 456 SIXTH AVENUE: "People like to come here and pretend they're in Paris, you know?" says manager Josh Trachtman. "A lot of our staff smoke, so I think that makes the smokers feel very welcome. . . . But the law's the law. . . . We are blessed with a back room that can seat ten to twelve; maybe we'll make that a smoking place—I mean, if we can. . . . I'm looking around the place now and it's a cloud of smoke in here. Yeah, it's gonna suck—pardon my language."

MATADOR RECORDS, ALTERNATIVE-ROCK LABEL AT 676 BROADWAY: "Not only do we allow it; we encourage it!" says co-president Gerard Cosloy. "We have a cart that goes around in the morning delivering cigarettes. We're not so concerned about employee health—we get a better turnover that way. . . . The policy's unconstitutional. I've got something for Giuliani to smoke right here. I voted for Dinkins. I don't have to follow Giuliani's rules." DANY LEVY

THE NEW YORK OBSERVER

JANUARY 23, 1995

Dining Out

In Rome, the smoke is foul.
In London, there's a stench.
In Paris, butts at bar or booth
Do not perturb the French.
In Tokyo, the geishas
Reek from tobacco's smell,
But Rudy's on a cancer kick,
So business goes to hell.

W.H. von Dreele

NEW YORK POST, SATURDAY, JANUARY 14, 1995 --Editorial--

A blow to personal freedom

Now that Mayor Giuliani has signed Council Speaker Peter Vallone's draconian anti-tobacco bill into law, it's no surprise that local restaurant owners want to know if they're expected to become smoking police.

After all, when force of law is substituted for ordinary civility, it creates a need for an enforcement mechanism.

That's just one of the reasons we were sorry to see the mayor sign Vallone's bill. In a larger sense, we consider the council effort an imprudent assault on personal liberties. Smoking, after all, remains a legal practice. Thus, whether or not to smoke should be a matter of personal choice — like whether or not to use alcohol. As for folks genuinely distressed by the presence of smoke in the air, smoking sections seemed to us a reasonable approach to potential problems.

Unfortunately, the health fascists, abetted by the City Council, far prefer restrictive legislation.

As a result, come April, smoking will be illegal in the dining areas of restaurants seating at least 35 patrons, as well as in outdoor stadiums, zoos, playgrounds and offices in which more than three people work.

These bizarre restrictions — outdoor settings! — are grounded in the underlying thesis that "second-hand smoke" is a health hazard. Suffice it to say that — while essential to the effectiveness of the anti-smoking crusade — the theory that "second-hand smoke" is a health hazard remains utterly unproven.

Indeed, as noted in a recent Wall Street Journal op-ed piece, scientists and health officials refuse to label any potential threat a genuine health hazard unless it has a (forgive the technical term) "risk ratio" of 3.0 or greater; the most intensive studies of "second-hand smoke" have produced a risk ratio of just 1.19 — compared to 1.3 for a legal abortion.

Thus, absent any genuine health risk, the Smoke-Free Air Law — which takes effect on April 10 — is nothing other than unjustifiable coercion. As Elaine Kaufman, owner of Elaine's, wrote to the mayor: "It is my business to make my customers more comfortable, not to provide them with moral instruction."

We also think Giuliani was off-target when he described opponents' fears of potential harm to local businesses as "New York-bashing." Such concerns are valid. Restaurants, hotels and small businesses *will* have to pay a financial price, first up front — just to comply with the law (construction of insulated rooms and so forth) — and, possibly in the long run, if business falls off.

In the end, no doubt, the city's restaurant and tourism industries will survive — but not without a considerable measure of inconvenience and totally unnecessary bureaucratic and financial harassment at a juncture when commerce in the city needs every boost it can get.

In the last analysis, however, the most important issue is the assault on individual rights inherent in the Smoke-Free Air Act. New Yorkers who care about excessive government intrusion in the lives of ordinary people — whether or not they happen to smoke — have suffered an important setback with the signing of this bill.

WASHINGTON TIMES SUNDAY JANUARY 15, 1995

Beset by problems, New York decides to tackle a phantom medical risk

I'd like to respond to your Dec. 22 news article "New York City Council bans smoking in public buildings."

Your article states that New York City Council members argued that "secondhand smoke is a more lethal killer than all of America's wars put together." Who comes up with statements and figures like that? Why are these types of statistics never challenged?

I knew quite a few young men who died in World War II, but I've never known anyone who died from secondhand smoke. I doubt that anyone has died of secondhand smoke.

As more people quit smoking, figures on deaths per year from smoking have steadily escalated — 250,000, 300,000, 360,000, now 410,000. Do the people who choose these figures check death certificates?

New York has horrendous problems, but secondhand smoke is not one of them.

VADUS V. HANNA
Springfield

2041128916

Tuesday, January 17, 1995 • DAILY NEWS

Cig firm fights 'Prohibition'

By LARRY SUTTON
Daily News Staff Writer

Vice made nice on the 75th anniversary of the start of Prohibition yesterday.

A tobacco company bought drinks for the press at 21, New York's most famous former speakeasy.

Then it paid a professor $9,000 to lecture reporters on how America's ban on alcohol in the 1920s compared with smoking restrictions today.

The professor's conclusion? What do you think?

"Prohibition doesn't work," said Mark Lender, head of advanced study and research at Kean College in New Jersey.

Few appeared astonished.

"In my research, I found striking parallels between society's views on drinking then and how we view smoking now," said Lender, the author of "Drinking In America: A History."

"If you compare the Temperance movement's evolution with the mushrooming legislation . . . you have to conclude that we're on the way to at least a 'back door' Prohibition," Lender said.

Next on the politically correct hit list? Fat!

"The new national campaign to correct what health officials call an 'epidemic of obesity' in America reminds me of the 'perfectionist' strain that marked temperance propaganda," Lender said.

The signs were everywhere. After drinks, the Brown & Williamson Tobacco Corp., makers of Kool, Carlton and Capri cigarets, treated reporters to grilled chicken, steamed broccoli and steamed carrots.

"Where's the steak?" cried one scribe.

The hosts were not amused.

Transcript

January 16, 1995
12:00-12:30 PM
WCBS-TV(CBS) Channel Two
New York City
Channel 2 News at Noon

Michele Marsh, co-anchor:

While many Americans are celebrating the life of Martin Luther King, Jr., today, there is one group that's remembering a different chapter in American history, namely, prohibition. Chris Borgan is at the 21 Club with the story. Chris?

Chris Borgen reporting:

Michele, the 21 Club today, elite, posh, with that sort of reserved elegance which speaks of it being a private club. Well, it's not. It is public. But this is a far cry from the 21 of seventy-five years ago, during prohibition, when the booze, etcetera, etcetera, was all illegal and to get into the 21 what you had to do was press a hidden button and come in through a hidden door. Well, all the whiskey was kept secret in rooms down in the basement behind large blocks and where the raiding eyes of the police could not see or grab. Well, that was prohibition then. The idea was to stop the public from drinking. It didn't.

Today there is that rising cry to stop the public from smoking. Will it?

Professor Ron Rotunda (Legal Scholar): Prohibition doesn't work; education does. And one of the sad aspects of prohibitory laws like New York's new law on smoking is that it will give tobacco the air of forbidden fruit, exacerbate the problem and turn away resources from education.

Dr. Mark Lender (Author): Chris, I think what you will find is that if you do try to enforce prohibition, you will create an illegal market in tobacco products, very much akin to the illegal markets and the social disruption they caused during the alcohol prohibition era.

Borgen: So what does this all say? Well, what it says is that today here at the 21 Club there is a sit-down luncheon for scholars and historians to discuss the aspects of prohibition, that old Volstead Act, and to see what it really did to the American psyche in stopping them from drinking and to take a hard look at this rising call to prohibit smoking and answer a question uppermost in everyone's mind: Will the prohibition of smoking lead to another speak-easy era where people will go to private places to smoke-- question mark?

I'm Chris Borgen, Channel 2 News, live at the 21 Club.

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POST Plus

NEW YORK POST, TUESDAY, JANUARY 17, 1995

A kick in the ash

Eateries try to get around smoke rule

By GERSH KUNTZMAN

ALAN Fleischman felt a fresh wind of change from the moment the City Council started debating a new anti-smoking bill back in November.

That's why Fleischman, the co-owner of Tatou, a midtown cabaret, opened Le Cigar at Tatou, a private smoking club upstairs from his main establishment, an island of smoking completely isolated from the anti-smoking regulations signed into law by Mayor Giuliani last week.

Fleischman is one of dozens of restaurateurs around New York who have already made — or are considering making — changes to ensure that they don't lose smokers, which can be anything from 20- to 70-percent of a restaurant's business.

Some, like Fleischman, are turning their restaurants into private clubs. Others are building special rooms in order to allow smoking yet still comply with the new law, which goes into effect on April 10.

Such separately ventilated smoke-filled islands don't come cheap.

"We spent $100,000 to open a smoking room in Cigar Bar," said owner Mark Grossich, who opened his East Side bar, bookstore and smoking haven to capitalize on the renaissance of cigar smoking.

Of course, some restaurants will just hire a hotshot lawyer and start the lawsuits flying, said legal experts.

"Lawyers will find loopholes," said constitutional law expert Ron Rotunda. "Utah is technically a 'dry' state, so the restaurants 'own' liquor stores. If you want a drink, you walk over and buy it from them."

Rotunda anticipated similar efforts by restaurants here.

"There will be a lot of litigation," he said ominously.

A Post Plus survey of some prime smoke-filled restaurants shows that there are plenty of efforts already afoot to get around the spirit of the law without violating the letter of the law.

■ Patsy's (236 W. 56th St., [212] 247-3491) is considering turning its upstairs dining room into Patsy's II — and dedicating the entire room for smokers.

"The law is a little unclear," said co-owner Frank DiCola. "If they allow us to do that, we'll do it. This could turn out to be a big advantage for us."

■ Like Tatou, San Domenico (240 Central Park South, [212] 265-5959) has opened a private club for smokers. Membership in the Cigar Connoisseur Club, which gets around the new law because it's a private club, costs $225.

And thanks to the new club, regular smokers in San Domenico's adjacent dining room will have a place to go if they simply must grab a smoke in between courses, owners said.

■ Jonathan Silver, owner of NYU mainstay Around the Clock (8 Stuyvesant Place, [212] 598-0402), is considering turning their bar, which is the requisite 6 feet away from the dining room, into a diner-style counter, so people can eat and smoke legally.

■ Thanks to a fire at their West 14th Street restaurant, the owners of Frank's will be able to open a room solely for smokers at their new place, on West 15th Street.

"Over 70 percent of my customers are cigar smokers," said owner Steven Molinari. "When we're in the new place, we'll have a room to accommodate 25 people smoking and drinking after dinner. If we hadn't had the fire, we'd never have been able to open a smoking room."

And then, of course, some restaurants will just ignore the law entirely.

"We're tempted to just let everyone smoke," said Sammy Martinez, manager at Lucky Strike (59 Grand St., [212] 941-0479), a restaurant that's so smoker-friendly they don't even offer a non-smoking section.

"This bill is a form of discrimination," said Martinez, a non-smoker who admitted that he can't even eat at his own restaurant — a mecca for models like Kate Moss — because the smoke is too thick. "Our strategy is to demand revisions in the law once people see how bad it is."

"Many of our members said they were going to ignore the law and wait until they got cited," said Scott Wexler, executive director of the United Restaurant, Hotel and Tavern Association, which fought the anti-smoking bill.

"We don't recommend that. But restaurateurs are concerned about being in the middle. Our job is to make everybody happy — and with this law, we can't.

ONE OF THE BOYS: *Kimberly Charles sits back and enjoys a well-rolled stogie at the Cigar Bar.*

No need to fume at Cigar Bar

By HILLARY ROSNER

WHILE 1994 was a very bad year for cigarette smokers, the past 12 months have been great for that other group of high-living tobacco connoisseurs: cigar smokers.

As cigar sales rose steadily over the last year, entrepreneurs added new ways to indulge the stogie smoker through cigar clubs, cigar dinners, and even a Cigar Bar.

And best of all, because these establishments are already exclusive, secluded or even private, they are exempt from the strict regulations of the city's new anti-smoking law.

Cigar sales rose by 5 percent last year, the first increase in almost 15 years, according to Norman Sharp, president of the Cigar Association of America.

"Cigars have become rather like wine," said Niki Singer, senior vice president of Cigar Aficionado, the two-year-old glossy magazine credited with playing a role in the industry's resurgence.

And the hobby appeals to different demographics than in decades past — savvy twenty- and thirtysomethings, and a growing number of women.

Enter Mark Grossich, an owner of three upscale wood-paneled smoking lounges and the recently opened Cigar Bar (880 First Ave. at 50th St., [212] 980-9314) — a leather-sofaed stogie haven.

Because Cigar Bar serves only hors d'oeuvres, it does not fall under the City Council's smoking regulations.

But Grossich said his Cigar Bar, an enclosed and ventilated room in the back of Beekman Bar and Books, cost $100,000 to construct. Under the ban, restaurants must choose between spending similar amounts of money, or losing business.

2041128918

Transcript

January 19, 1995
6:00-6:30 AM (CT)
KNWS-TV (IND) Channel 51
Houston
TV 51 News

Mike McDonald, anchor:

The government is continuing hearings this week on whether it should force businesses to restrict or totally ban smoking in the workplace. In the KNWS Viewfinder, we wanted to know what you thought about smoking on the job. The question: Should the government ban smoking in the workplace? Most people called to say "no." Sixty-two percent said it should be up to individual companies to set up a no smoking policy. But thirty-eight percent said yes, they believe the government should have a voice in banning smoking. (Graphic: Viewfinder: Should the government ban smoking in the workplace? Yes 38%, No 62%)

# # #

ST. LOUIS POST DISPATCH JAN 23 1995

EDITORIALS

Anti-Smoking Rules Must Be Reasonable

The New York City Council passed a tough new anti-smoking law last month that will further limit the extent to which non-smokers are exposed to second-hand smoke. That is all to the good, but some of the law's other features may not be.

Current law mandates no-smoking sections in restaurants seating more than 50 people, but it does not restrict smoking in restaurants seating fewer than that number. The new law prohibits smoking in all restaurants seating more than 35 people. Smoking will only be allowed in bars six feet from the dining area or in separate rooms.

The original proposal banned smoking in all restaurants and all bars. But proprietors' fears of severe economic harm persuaded the council to moderate the new ordinance's provisions.

The new law also prohibits smoking in outdoor stadiums and parks, where it is now permitted. The rules for offices will be changed, too. Now, smoking is allowed if all present agree. The new law permits it only if no more than three people are present and agree. Separately ventilated smoking rooms are also permitted.

Protection against secondary smoke justifies most of the new restrictions. Widely restricted smoking is also worthwhile to discourage young people from starting. But the needs of millions of smokers who can't quit should also be considered.

Studies indicate that most of them want to quit and have repeatedly tried; evidence that they can't is ample. Denying them the freedom to smoke where it harms no one else is not justified. Segregated smoking areas in open-air stadiums should be considered. More important, mandating a reasonable number of smoking rooms in private businesses is vital — more than, for instance, Chase Manhattan Bank's one lounge for 5,000 employees.

The goal isn't to facilitate a bad habit but to acknowledge the reality of an addiction. Understanding that smoking is an addiction for many, and that social pressure and restricted permission can't cure it for some, is a reality society must recognize.

2041128919

NEW YORK NEWSDAY, SUNDAY, JANUARY 22, 1995 FANFARE

DENNIS

DUGGAN

The Argument Over Smoking

FOR HER SMOKE-BECLOUDED television appearance recently, Kathleen Gingrich ought to be smoking free for a long time. Can we expect to see her in ads promoting the tobacco industry? Here's an industry that has been under a figurative cloud ever since someone figured out that smoking is harmful to your health. But the sight of Newt's mother smoking up a storm on national television must have titillated the tobacco moguls no end. Kathleen Gingrich, poster woman for smokers!

By contrast, this city made further inroads into the space it allows smokers. On this one, Mayor Giuliani and City Council leader Peter Vallone were in complete accord. They pushed through a bill, to take hold in a few weeks, that pushes smokers further out of the inner circle.

Of course, if you're a smoker, you love Mrs. Gingrich. If you're not, you're ready to vote the mayor a second term. I'm not a smoker anymore, so I'm in the Rudy camp all the way. When people light up near me now, I consider it an act of war. I don't want people blowing secondhand smoke all over me, and when I walk into a place where a lot of people are smoking, I wonder how I survived years of inhaling carcinogens. Hey, that's what reformers are — former smokers.

Still, laws telling people what they can and can't do are troubling. I know people who won't use a seat belt, because they say no one is going to tell them what to do — even if it makes sense. We all know from sad experience how Prohibition became a bonanza for the gangsters and a constitutional amendment had to be scrapped.

I had lunch a few days ago with Joseph Califano, who currently heads the Center on Addiction and Substance Abuse at Columbia University. Califano was secretary of Health, Education and Welfare in the Carter administration. He also was an aide to President Lyndon Johnson during the years when the most significant health legislation was passed as part of LBJ's War on Poverty. But that was a war that soon took second place to the one in Vietnam.

It was Califano whom Mayor Ed Koch called on in the 1980s to head a commission studying antismoking legislation. So the Brooklyn-born, Harvard-educated Califano wound up writing this city's most aggressive law against smoking.

Even Joseph Califano once smoked four packs a day

"It was then the toughest law in the country," said Califano. The tobacco industry fought it and spent $5 million trying to defeat it in the City Council.

"I told the mayor that the bill would die in the City Council, but Ed said no, because this is New York. He said that the council would take the money, but vote for the bill — and that's just what happened."

Califano also was instrumental in writing legislation for Medicare and Medicaid. And he has written a new book called "Radical Surgery," which is timely, since we have just gone through a disappointing collapse of the Clintons' attempts to bring health care to all Americans.

Califano attributes the debacle to the fact that the Clintons "threw a billion-dollar pot into the air and told the various elements of the tobacco industry to fight for their share."

Over lunch, Califano laughed at the thought that the new laws will lead to "smoke-easies," the equivalent of those 1920s speakeasies that followed Prohibition's anti-drinking laws. Columnist Sidney Zion, who suggested the idea of smoke-easies, also says the laws will turn "Baghdad-on-the-Hudson into Sarabeth's Kitchen."

Califano doesn't agree with this, but when I introduced him to Mark Strausman, the chef-owner of Campagna, where we lunched, Strausman didn't look too happy.

"I went to a cooking school, not a police academy," he said to Califano. "These new laws are going to force me to be a referee instead of a restaurant owner."

Califano said that when he worked for LBJ, he was a four-pack-a-day smoker. That is just what retired Lt. Richard Gallagher was when he worked homicides in New York. Gallagher said he had such a bad cough that he had to buy an electric razor. "I used to cut myself shaving every morning using a hand razor, because I coughed so much," says Gallagher.

Califano says he stopped smoking in 1975 when his son Joe, then 11, asked him for a birthday present. "What do you want?" asked Califano.

"For you to stop smoking," said his son.

He thinks that America has the greatest sick-care system in the world, but that "the future lies not in Washington but in our personal values and conduct.

"What do seat belts, divorce, guns, beer, tobacco, poverty, pollution, education, sex, sunshine, icy sidewalks, lousy parents, butter and bungee jumping have in common?" he asks in his fascinating and often gripping insider's look at the nation's health as well as it's health-care system.

"In ways big and small," he says, "they all affect our health-care system."

We don't always do what's best for us, of course. I have talked to people who suffer from emphysema who also tell me they can't give up smoking. The writer David Markson tells me that even after quitting years ago, he still dreams about smoking.

So some of us are going to smoke, smoke, smoke that cigarette . . . till we smoke ourselves to death. It's called freedom of choice, and as we know from the abortion controversy, one man's freedom is another's dead cat.

2041128920

NEWSDAY, TUESDAY, JANUARY 17, 1995

The Nassau No-Smoking Push

By Kinsey Wilson
STAFF WRITER

Health dept. drafting tougher regulations

Tough new regulations that would further restrict smoking in offices, restaurants and other public places are being drafted by Nassau health officials with an eye to bringing the county's code into line with recently enacted laws in Suffolk County and New York City.

Although specific language has yet to be written, proposals currently under review by the health department would move the county closer to an outright ban on smoking in public.

The health department review comes at a time of growing public intolerance toward smoking and a proliferation of ever more restrictive regulations nationwide. But as officials in Suffolk and New York City recently discovered, any proposal to impose broader smoking bans is likely to spur a debate over just how far government should go.

Nassau's Health Commissioner, Dr. Kathleen Gaffney, said the department was proceeding slowly, taking care to confer with restaurant owners and others whose economic interests might be affected by a more comprehensive ban.

But restaurant groups — which lobbied against new restrictions in Suffolk and New York City — have already signaled their opposition to any change in the Nassau ordinance, saying the current code provides ample protection for nonsmokers.

"In my opinion, the sole basis for this amendment is governmental one-upsmanship," said John Spellman, a lawyer representing the Long Island Chapter of the New York State Restaurant Association. "The current law protects everyone."

Nassau's smoking ordinance, last revised in 1987,

Please see SMOKING on Page A45

(Cont'd)

(Cont'd)

The No-Smoking Push

SMOKING from Page A5

generally bans smoking in public places, but allows patrons to light up in bars, theater lobbies, and smoking sections within restaurants. Smoking is also permitted in private offices, and smoking sections within employee lounges and cafeterias.

Gaffney said the Board of Health decided to revisit the issue because of growing evidence concerning the dangers of second-hand smoke and because of the stiffer laws recently enacted by Suffolk and New York City.

"This has not come to a vote, so the board has individual varying viewpoints," Gaffney said. "But there is a general sense on the board that they want to protect people."

An "options" paper drafted by the health department outlines different courses the board might pursue, ranging from simple parity with the state's slightly stricter no-smoking laws to a virtual ban on smoking outside the home.

The most restrictive proposal would ban smoking in all public facilities, ranging from bars and restaurants to offices and even outdoor arenas. Smoking also would be prohibited outdoors within 25 feet of doors, windows and air intakes.

Another option, labeled "Board of Health proposal," would effectively ban smoking in any area accessible to nonsmokers, but would permit smoking in "totally enclosed separately ventilated" areas.

The proposal is similar to a law that took effect in Suffolk Jan. 1, that bans smoking in restaurants unless they are equiped with separately ventilated smoking rooms. In New York City, a law signed by Mayor Rudolph Giuliani earlier this month bans smoking in restaurants with 35 or more seats.

The Nassau "options paper" indicates the department's preference for a hybrid set of regulations, in some cases mirroring the laws enacted in Suffolk and New York City, and in some cases exceeding those requirements. But a formal proposal is not expected to be presented to the board for at least a month, and a final decision — following public hearings — is not expected before June. The changes would not require action by the county executive or the Board of Supervisors.

NEWSDAY, WEDNESDAY, JANUARY 25, 1995

A Mayor's Link to Tobacco Lobby


Arthur Thompson

By Kinsey Wilson
STAFF WRITER

At a meeting of the Nassau Board of Health last week, Freeport Mayor Arthur Thompson voiced great concern over plans to broaden the county's no-smoking regulations.

As a representative of the Village Officials Association, Thompson said, he was worried that new regulations might violate the villages' home-rule powers. He said he feared local restaurants would lose money. And he questioned whether the regulations might be crossing the line from public health into "social engineering."

What Thompson didn't say is that in addition to serving as mayor, he also works with a politically connected lobbying firm that opposes antismoking legislation on behalf of tobacco giant Philip Morris USA.

Correspondence obtained by Newsday lists Thompson as the Nassau "coordinator" of the lobbying firm's "Philip Morris program." And two other Philip Morris lobbists — Patricia McCrann of McCrann Public Affairs Inc. in Hauppauge and Elizabeth Lasky of Capital Public Affairs in Albany — said Thompson is one of several people who represent the tobacco company's interests on Long Island.

But the head of the lobbying firm, former state Assemb. Arthur J. Kremer, insisted last week that Thompson had never worked on tobacco-related accounts. Thompson himself acknowledged working with Kremer, but refused to say whether he had worked on the Philip Morris account.

(Cont'd)

(Cont'd)

"When I'm a village official, I'm a village official," Thompson said last week. "I don't think there is a conflict at this point."

The president of the Village Officials Association, Leonard Samansky, said he was prepared to take Thompson at his word. But Samansky, the mayor of Saddle Rock, said Thompson should have told the mayors of his ties to Kremer's lobby firm before appearing before the health board.

"I certainly would have liked to have known about it before you called," Samansky said after questioning Thompson about the matter last week. "I think it is important that this type of thing be brought to the attention of the association so that it doesn't come as a surprise to anyone." Samansky said he would raise the matter at the association's executive meeting tomorrow. But he said his group is still concerned about any new antismoking laws.

Nassau is the latest municipal government to consider beefing up its smoking regulations.

New York City and Suffolk County recently enacted tough new restrictions governing the workplace, restaurants and other public places — legislation that was vigorously opposed by both the tobacco and restaurant industries.

So far, the prospect of stricter smoking restrictions for restaurants and other public places in Nassau has not provoked a visible lobbying effort. But opposition is building.

In a meeting with the Health Department last month, restaurant owners and bowling alley proprietors voiced concern over the potential economic impact of revised regulations. And tobacco officials acknowledge that they are watching developments in Nassau with interest.

The Village Officials' Association, meanwhile, was first alerted to the issue by Thompson, who said he showed them a "fax of a fax of a fax" of a Health Department letter advising restaurant owners that new regulations were under consideration.

Thompson and Samansky met with department officials in December to voice concern over any change in the current rules, and Thompson raised similar concerns at a meeting of the board of health last week.

Asked after the meeting about his ties to Kremer, Thompson confirmed that his company, Thompson & Associates Public Relations, has a contract with Kremer's Statewide Corporate Strategies. He said he had not done any lobbying on behalf of the tobacco industry but refused to say whether his work for Kremer involved tobacco-related accounts.

Statewide Corporate Strategies Inc. was established in late 1993, according to state records, and operates out of Kremer's Park Avenue apartment.

Statewide's only client of record — in jurisdictions where it is required to report — is Philip Morris, which told Suffolk County authorities last June that it was paying Kremer $1,000 a month.

Kremer said the firm has about 11 clients, but he declined to identify the others. As for the documents that refer to Thompson as a regional coordinator of the Philip Morris account, Kremer said Thompson was offered the position last year, but turned it down. He was retained to work on other accounts.

McCrann and Lasky, who also are listed as regional coordinators on the Philip Morris account, both confirmed that Thompson is affiliated with their effort. And Lasky said she had participated in several conference calls with Thompson.

Kremer, however, said McCrann was "mistaken." He could not be reached after Lasky was contacted. A spokeswoman for Philip Morris said the company does not discuss its lobbying contracts.

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DETROIT NEWS & FREE PRESS JAN 2 2 1995

Dunkin' Donuts' smoking ban frosts some customers

Although many see it as a breath of fresh air, some owners and customers are huffing and puffing over smoke-free plan.

By R.J. King 2 1/8

Steam is rising up from the tables of Dunkin' Donuts in Oak Park and it's not from the coffee.

Dunkin' Donuts is banning smoking inside its 3,000 U.S. restaurants by month's end, and people like Marvin Goldberg are fuming.

"I used to sit down for 45 minutes. Now I go in and get out. I hate it," said Goldberg, a smoker and West Bloomfield salesman.

"I've resigned myself to no smoking in Dunkin' Donuts. I'll just get my coffee to go."

Dunkin' Donuts restaurants in Metro Detroit are ahead of the pack on the smoking ban issue. On Jan. 1, 75 of the 80 Dunkin' Donuts in Metro Detroit went smoke-free as part of a voluntary program.

The store in Oak Park is one of the five not participating in the smokeless program because of customer protests.

"Seventy percent of my customers are smokers, and if I banned smoking, they said they would go somewhere else," said Sam Warra, who co-owns the restaurant with on their premises.

"More restaurants will follow suit and ban smoking," predicts Sarah Wolk, a retail expert and president of Sarah Wolk and Associates in Birmingham. "People don't want to be around smoke. Not in restaurants. Not in stadiums. Not on airplanes. The smoke gets in clothing and in food."

John Wood, executive vice-president for Machus Enterprises Inc. in Birmingham, which operates five restaurants, said his company is banning smoking slowly.

"Five years ago, 10 percent of our restaurant floor space was for nonsmokers. Today, it's almost reversed."

"We want to honor our customers' wishes. I see a day when we ban smoking entirely, but we still have good customers who are smokers."

his brother, Mark.

Dunkin' Donuts has long been thought of as a haven for smokers, Warra said. Now Warra is worried his business will suffer when the corporation makes the smoking ban mandatory next month.

"We'll do what they say, but I think we're going to lose customers," he said.

Edith Weiss of Oak Park and a reformed, 20-year smoker, said she'll be more comfortable in Dunkin' Donuts after the ban.

"I can't stand the smell of smoke," said Weiss. "I used to smoke, but not any more. It just bothers me. This really will help. I may even come here more often."

At the Dunkin' Donuts in Farmington Hills, which has no smoking, co-owner Jerry Awad has gained business since the ban.

"At first we lost some smoking customers, but now that more people know we're smoke-free, we've

R.J. King is a Metro Detroit free-lance writer.

(Cont'd)

Duane E. Belanger / The Detroit News

"I think we're going to lose customers," says Sam Warra, co-owner of Dunkin' Donuts in Oak Park.

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(Cont'd) picked up business," said Awad. "There were some complaints, but the ban has worked to our benefit. There's not a cloud (of smoke) in here. It's fresh air. People love it."

John Morocco, field marketing manager for Dunkin' Donuts, headquartered in Randolph, Mass., said the 45-year-old company found in a customer loyalty survey that the No. 1 reason for customer dissatisfaction was smoking.

"We did two surveys, one in 1992 and one in 1993, and we found people didn't like smoke," said Morocco. "In addition, doughnuts are very porous and they absorb any smoke. So when the smoke is gone, people get fresher tasting doughnuts."

Dunkin' Donuts follows several area businesses — including area shopping malls, the Palace of Auburn Hills and other fast-food outlets — that have banned smoking

BUSINESS WEEK / JANUARY 30, 1995

Up Front

DRAWN & QUARTERED

ENDANGERED SPECIES

A VERY TONY SMOKE-FILLED ROOM

TALK ABOUT OUTCASTS. IN AN increasingly tobacco-antagonistic society, cigarette puffers pale next to cigar smokers. But now, there's a sanctuary for the stogie crowd, albeit a pricey one.

Havana, a private Beverly Hills club for cigar smoking, opens in March. With a charter membership that spans the generations from comedian Milton Berle to actor Jason Priestley of *Beverly Hills 90210* and is open to both sexes, the club costs $2,000 to join and $150 per month. Members have their own private humidors on premises, where they also can eat and drink. "This is an incredible oasis," says Joe Pantoliano, an actor (*Risky Business, The Fugitive*) who co-owns the joint with veteran restaurateur Stanley Shuster.

To them, the club concept is the best defense against the march of antismoking legislation. A number of restaurants around the country host cigar nights, yet new local laws ban any smoking in public places. Arnold Schwarzenegger closes his entire restaurant one night a month to avert Santa Monica's new ordinance and host his stogie shindig. *Jennifer Holland*

CUBA 90210: *Cigar smokers Shuster, Berle, Pantoliano*

2041128924

The Herald-Dispatch — Huntington, WV, Saturday, Jan. 14, 1993

Cabell smokers join to fight proposal

By SHANA [illegible]
The Herald-Dispatch

Paul Slone is a smoker.

He's enjoyed two packs of cigarettes a day for more than 20 years, and a countywide Clean Indoor Air Regulation, if passed by the Cabell Huntington Board of Health, is not going to change that.

What it will do, said Slone, is keep him from those public places where the proposed act restricts his habit.

Dean

"I just avoid these places and I suspect a lot of other smokers will too," the Huntington resident said. "If you're a smoker, if you feel you're unwanted, you're not going to visit."

Norma "Skippy" Wright of Huntington isn't as passive.

"I'm prepared to go to jail," Wright said of the proposed rules that state a violator could be punished by no more than 30 days in prison. "They're going to have to take me in. I'm not going to curb my smoking."

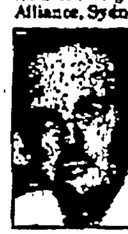
Allen Dean is getting mad.

"It's tyranny," said Dean, owner of Mycroft's restaurant.

"Why have they chosen to ram this down our throats by a non-elected body?" he said of the six-member appointed health board.

Bob Sydnor's taking action.

With Wright's prompting and the advice from the Virginia-based National Smokers Alliance, Sydnor's handing out petitions to fellow residents.



Sydnor

"All we're trying to do is to get the people that will be involved enlightened on what will happen to them," he said.

Wednesday, the health board will vote on the proposal.

For the first time, Cabell County faces an act that would ban smoking in public places such as grocery stores and limit it to 25 percent of the seating in restaurants.

Also for the first time, smokers are taking the issue into their own hands, grass-roots style.

"We have to have a coalition that stands up on their hind legs and yells," Wright said.

After hearing about the health board's Dec. 7 public meeting, the first time the regulation was publicly discussed, smokers got motivated:

■ They called the non-profit National Smokers Alliance, and got immediate help on how to organize.

■ They wrote letters and sent them to all 5,000 Cabell County NSA members.

■ They went door-to-door to area businesses, distributing pamphlets and petitions.

■ And they've contacted a Huntington lawyer, Charles Hatcher, who said that even if he doesn't take the case, it is almost definite that a lawsuit to stop the regulation will be filed by next week.

And, of course, they'll be at the meeting to show the board they don't want a "yes" vote.

But their efforts may be for naught, and Wright knows that.

"I feel like we're going to get slammed right in the face," she said. "What is morally right and legally right are two different

Please see SMOKERS/2A

Paul Slone
Huntington man enjoys a smoke

CABELL SMOKERS JOIN TO FIGHT PROPOSAL

(RETYPED FROM FUZZY ORIGINAL)

By Shana (?)
Huntington, WV Herald Dispatch

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"I feel like we're going to get slammed right in the face," she said. "What is morally right and legally right are two different things.

While many smokers feel it is their given right to smoke any time, any place they want, many health officials disagree. And that is the heart of the matter.

"It's not a crusade against smokers," said Dr. Omayma Touma, medical director of the health department.

"When people choose to smoke, it's their own right," she said. "The only thing we are telling them here, if they choose to smoke in front of non-smokers, it's a general health issue. They are depriving them of clean air."

The regulation is directed at controlling the second-hand smoke that smokers exhale, which is a class-A carcinogen like asbestos and radon, Touma said.

It's directed at protecting the approximately 265 lives that Cabell County loses each year to smoking. And it's directed at saving the county $34 million or $352 per person a year in health care and employee absenteeism, Touma said.

"If we were a perfect society, you wouldn't have to tell people what to do," she said. "But in real society, you have to tell the car industry to try to do certain safety regulations or else they won't do it, and you have to tell smokers not to smoke in certain places."

That's where she and many smokers diverge.

"The government cannot take care of you from the cradle to the death," Wright said. "Life is a risk."

CABELL COUNTY SMOKING PROPOSAL

The Cabell Huntington Health Department's six-member health board will vote on the Cabell County Clean Indoor Air Regulation during its meeting at 7:30 p.m. Wednesday. The meeting will be conducted at the health department at 1334 Hal Greer (?) Blvd.

If passed, this proposal would regulate smoking in most public places except in bars, tobacco stores, hotel/motel rooms and halls rented for private purposes.

The act would restrict smoking in grocery stores, retail stores, restrooms and elevators, waiting rooms and places of public transit.

It would also limit smoking in restaurants to no more that 25 percent of the seating. This would include eating areas in malls.

Although the act would primarily be self-regulated through social pressure, the health board could charge a violator with a misdemeanor. If convicted, the violator could be fined no more than $200 or be imprisoned for no more than 30 days, or both.

2041128926

WV Smoking Ban,430, Smokers Fuming Over Proposed County Smoking Ban

HUNTINGTON, W.Va. (AP) Some smokers are fuming over a proposed ban on smoking being considered by the Cabell Huntington Board of Health.

The proposed Clean Indoor Air Regulation would ban smoking in public places in Cabell County and limit smoking areas to 25 percent of the seating in restaurants. It also would punish violators with up to 30 days imprisonment.

``I'm prepared to go to jail,'' said Norma ``Skippy'' Wright of Huntington. ``They're going to have to take me in. I'm not going to curb my smoking.''

The following 11 counties in West Virginia already have bans: Raleigh, Wood, Pleasants, Ritchie, Wirt, Calhoun, Roane, Grant, Monongalia, Pendleton and Hampshire.

Paul Sloane of Huntington has been lighting up to two packs a day for more than 20 years. He said he will just stop going to places that would be affected.

``I just avoid these places and suspect a lot of other smokers will too,'' he said. ``If you're a smoker, if you feel you're unwanted, you're not going to visit.''

The six-member board is scheduled to vote on the proposal Wednesday.

``It's tyranny,'' said restaurateur Allen Dean.

``Why have they chosen to ram this down our throats by a non-elected body?'' he asked.

With help from the Virginia-based National Smokers Alliance, Bob Sydnor is handing out petitions to residents.

``All we're trying to do is to get the people that will be involved enlightened on what will happen to them,'' he said.

``We have to have a coalition that stands up on their hind legs and yells,'' Wright said. ``I feel like we're going to get slammed right in the face. What is morally right and legally right are two different things.''

Although many smokers believe they should be able to light up anywhere and anytime, many health officials disagree.

``It's not a crusade against smokers,'' said Dr. Omayma Touma, a county health official.

``When people choose to smoke, it's their own right,'' she said. ``The only thing we are telling them here, if they choose to smoke in front of non-smokers it's a general health issue. They are depriving them of clean air.''

The proposed regulation also would save the county $34 million a year in health care costs, Touma said.

``If we were a perfect society, you wouldn't have to tell people what to do,'' she said.

But Wright believes the government should just butt out.

``The government cannot take care of you from the cradle to the death,'' she said. ``Life is a risk.''

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USA TODAY • WEDNESDAY, JANUARY 25, 1995 •

Airlines join forces to ban trans-Atlantic smoking

By Del Jones
USA TODAY

No butts about it, travel is going smokeless.

Tuesday, eight airlines got the government's OK to discuss banning smoking on trans-Atlantic flights. An airline can ban smoking on its own, but risks losing business. American, Continental, Northwest, TWA, United, USAir and British Airways now can act in unison without violating antitrust regulations.

Delta became the first U.S. airline to ban smoking on all international flights and in its lounges on Jan. 1. Its passengers are suffering nicotine fits. Delta's hub, Hartsfield Atlanta airport, banned smoking three months earlier in all but one area on Concourse E.

"We had complaints galore from smokers," says airport spokeswoman April Majors.

Smoking has been banned since 1990 on domestic flights, except those over 6 hours to or from Alaska or Hawaii.

Elsewhere:

▶ Northwest will become smoke-free on all flights between the USA and London, Paris and Frankfurt March 1. Its Seattle-Hong Kong flights are smoke-free.

▶ All Qantas flights from North America to Australia and New Zealand will become smoke-free March 1.

▶ Air Canada, the first airline to go smokeless on international flights, has done the same in 16 lounges.

▶ In a poll next month, Airport Operators Council expects to document a rise in the number of airports banning smoking. Only five banned it two years ago.

▶ La Suite, a Florida company, is starting what may be the USA's first smoke-free hotels. Smoking guests will be exiled to outdoor decks. The first La Suite will open in Kissimmee, Fla., next month, followed by another in Melbourne, Fla. CEO J.D. Nana, who "despises" smoke, says the company will add about 100 hotels a year.

The American Hotel & Motel Association says the number of smoke-free rooms is closing in on 50%, up from 40% in 1990. Eighty-seven percent of hotels offer no-smoking rooms vs. 79% in 1990.

The travel industry may find encouragement in a recent Budget Rent A Car survey that shows high-paying business travelers are more smoke-sensitive than leisure travelers. Among business travelers, 82% request non-smoking hotel rooms vs. 71% of leisure travelers. And 65% choose no-smoking rental cars vs. 55% of leisure travelers.

Non-smokers get newer rental cars, too. Hertz, Avis and Budget designate up to 80% of their new cars for non-smokers. They become smoking cars when ashes are inevitably found in the ashtrays.

(Other coverage available upon request.)

MA W. Mass. Briefs,0330

SMOKING BAN=

ERVING, Mass. (AP) Saying they are satisfied with politeness, Erving Health Board members have unanimously voted against enacting a ban on restaurant smoking.

The board voted Monday night after no residents showed up at a scheduled public hearing on the proposed ban.

Board Chairman David Gendron said a survey by the health board of the town's seven eateries, including one that does not allow smoking, showed smokers and non-smokers coexisting peaceably.

``I found out a lot about people who smoke,'' he said. ``If there are complaints, smokers will put out their cigarettes or owners will put on the ventilation system. They're courteous. No one makes a big deal about it.''

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HOUSTON POST JAN 21 1995

Thou shalt not smoke

World faith groups urged to join crusade

"Do you not know that your body is a temple of the Holy Spirit within you, which you have from God, and that you are not your own? For you were bought with a price; therefore glorify God in your body."

— 1 Corinthians 6:19-20

BY STEVE BRUNSMAN
POST RELIGION REPORTER

P.E2

When was the last time you heard a tobacco sermon?

As the nationwide campaign to snuff out smoking grows, some U.S. religious groups have created corporate-level ministries to challenge tobacco companies on their policies and practices at home and abroad.

BLUM: DOC founder

Some anti-tobacco activists, however, contend that faith groups remain too silent about the health dangers of nicotine and rarely speak up or put enough action behind anti-tobacco prohibitions or public resolutions.

"The religious community has bought a meal ticket away from reality. What science says is well known. The statistics are grim. Yet, it does not come to my attention often that religious leaders are talking about the issue," said Dr. Alan Blum, founder of Doctors Ought to Care, a Houston-based group that formed in 1977 to oppose the use of alcohol and tobacco among teen-agers.

Blum's group was the first to take aim at Joe Camel advertisements.

The international health group has bought billboards in American cities to lampoon cigarette smoking and it criticized the Vatican and Jewish groups for allowing tobacco companies to sponsor art exhibits during the 1980s.

The Houston group recently moved into new Rice Village offices. It intends to create a national clearinghouse and vast library on tobacco-related topics, including a religious collection.

Blum, who works at Baylor College of Medicine, also hopes that alcohol and tobacco will become grass-roots political issues, especially among clergy who work with teen-agers in Houston.

Many U.S. denominations have taken anti-tobacco stands, and groups such as Southern Baptists, Seventh-day Adventists, Jehovah's Witnesses, Mormons, Pentecostals and Mus-

A brief history of tobacco use

Tobacco, along with alcohol and gambling, was viewed as a social prohibition by many Protestant groups. But smoking grew in popularity nationwide, beginning in the 18th century.

The anti-smoking stigma has increased recently as a result of medical data that links tobacco use to health hazards and death. The surgeon general first linked smoking to disease in 1964. Since then warnings from many groups have concluded that smoking is a major cause of health problems worldwide.

In his 1982 report, then-surgeon general Dr. C. Everett Koop stated, "Cigarette smoking is clearly identified as the chief preventable cause of death in our society." He noted a casual link between smoking and cancer of the lung, larynx, esophagus and oral cavity. Koop was the first to label smoking a "contributory factor" in the development of cancer of the bladder, pancreas and kidney.

Source: Michael Crosby of the tobacco issue group with the Interfaith Center on Corporate Responsibility.

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lims have abstention rules.

But for Blum and others, words and resolutions aren't enough.

"You have to do more than pass resolutions. We used to always laugh about that in the American Medical Association. I've worked in medicine long enough to know that resolutions don't do anything," Blum said.

"Let's go back to the time when religious leaders had great influence and spoke out. Tobacco should be a galvanizing issue for the religious community. It's not even an issue today," he contends.

The Rev. Christopher Smith, youth minister at Northside Assembly of God, 10715 Veterans Memorial, agrees. His church-going grandfather smoked and died of emphysema. Smith is now writing anti-tobacco studies aimed at teen-agers.

"I delved into this, and found that the church had buried its head in the sand. The church says 'Don't do it,' and it's easy for the church to say that but people need to know what effects tobacco have physically, spiritually and morally," the youth minister said.

Faith groups worldwide are being asked to increase anti-tobacco efforts.

At an international conference organized by the World Health Organization and other health groups last November, world religious leaders were urged to "formulate policies and take action to protect humanity from the dangers of tobacco."

In a Paris conference session on religion and tobacco, representatives of Christian, Jewish and Muslim faiths agreed that tobacco use and practices in the industry conflicted with beliefs expressed by world religions.

The World Health Organization today estimates that about 3 million people die each year from diseases caused by smoking. More than 500,000 people will die each year in the United States during the 1990s, it is estimated.

At the Paris conference, faith groups agreed for the first time to gather annually, and an Islamic council on tobacco control was formed. Estimates put Muslim smokers at about 200 million people worldwide with huge increases in smoking in Third World nations.

The Koran prohibits the use of drugs, including tobacco, speakers noted.

In the United States, Catholic theologian Michael Crosby began the first faith-based attack on tobacco industry policies when a religious order bought 10 shares of Philip Morris and R.J. Reynolds and then sought a review through shareholder resolutions of Third World cigarette marketing practices.

Crosby's religious group, the Midwest Province of the Capuchin-Franciscan order, was the first to file shareholder resolutions based on health problems connected to smoking.

Since then, tobacco has become a prime issue for the Interfaith Center on Coalition on Corporate Responsibility. The New York City-based coalition now represents more than $10 billion in investments, and its members include 225 religious orders, dioceses, Protestant agencies and health-care concerns.

In Houston, the Congregation of Sisters of Charity of the Incarnate Word, based at Villa de Matel, 6510 Lawndale, has filed shareholder resolutions on issues ranging from tobacco sales to minors to inquiries about ties between U.S. tobacco and insurance companies.

One of that religious order's pending resolutions calls on Kimberly-Clark Corp. to divest tobacco-related businesses. The Dallas-based firm, which makes disposable diapers, also manufactures paper and other material used in cigarette production.

Kimberly-Clark and tobacco company representatives declined comment or did not return telephone calls. A Kimberly spokesman said recently that it was simply making paper, a legal business in the United States.

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2041128930

RTna 01/17 1820 Nicotine patch works best with counseling

WASHINGTON (Reuter) - Nicotine patches work best when combined with other anti-smoking programs and regulators should consider making them available without a prescription, the author of a new study said Tuesday.

John Pierce, an epidemiologist at the University of California Cancer Center in La Jolla, and the lead author of a report appearing in this week's edition of the Journal of the National Cancer Institute, also said in a telephone interview his research found that nicotine patches are not addictive.

Pierce's team looked at the nicotine patch use as part of their evaluation of California's anti-smoking drive. They surveyed 3,281 people trying to quit in California in 1993.

He found that people using the transdermal nicotine patch by itself did not have much higher success rates than people quitting without the patch. Only about one in 10 attempts to quit smoking is successful, although smokers often manage to quit after repeated attempts.

But people using the patch along with some other anti-smoking technique, such as behavioral modification programs, did have a better chance of kicking the habit. Almost 19 percent of them succeeded, Pierce found.

Pierce said the patch addresses the physical side of nicotine addiction, and behavioral approaches deal with the psychological addiction.

But since the patch is safe, and since few doctors seem to be aggressively helping patients stop smoking, federal regulators should probably consider allowing people to get the skin patch without a prescription, or in conjunction with other anti-smoking programs, Pierce said.

Public health experts have been searching for better tools to help people give up the hazardous habit. Less than half of the people attempting to quit on their own make it through even a week, and only one in five makes it to three months.

The nicotine patch became available to U.S. patients in January 1992.

REUTER

(Other coverage available upon request.)

RTw 01/16 0923 Black pepper reduces nicotine craving - magazine

LONDON, Jan 16 (Reuter) - Smokers trying to kick the habit who have tried everything from nicotine patches to herbal cigarettes could try smoking black pepper, a British health magazine suggested on Monday.

Healthy Eating, referring to a study reported in the Drug and Alcohol Dependence Journal, said smoking black pepper is the latest way to curb cigarette craving.

During the study, 48 smokers who had been deprived of cigarettes overnight puffed on a device delivering either mint/menthol vapour, essential oil of black pepper vapour or no vapour at all for three hours.

"The black pepper smokers reported a significantly reduced cigarette craving compared with the two other groups," the magazine said.

REUTER

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ORANGE COUNTY REGISTER JAN 25 1995

HEALTH AND FITNESS NOTEBOOK

Drug side effects can mimic mental illness, newsletter says

The Orange County Register

Not-so-deep sleep: Heavy smokers are 40 times more likely to have sleep apnea than people who never smoked, researchers have found.

Scientists at the University of Wisconson invited more than 800 men and women to spend the night in a sleep lab. The researchers found that those who smoked one pack of cigarettes a day were three times more likely than nonsmokers to have some sleep apnea, or temporary stopping of breathing.

Two-pack-a-day smokers were 40 times more likely to have sleep apnea, which can cause hypertension.

The Washington Times

JAN 20 1995

Smoking, heart attacks linked by insulin

2,P10

SANTA BARBARA, Calif. — A strange disorder in the body's ability to use insulin may be the elusive "smoking gun" that clinches cigarette smoking as a cause of heart attacks, Scripps Howard News Service reports.

Dr. Gerald M. Reaven said overwhelming evidence uncovered during the last 30 years implicates cigarette smoking as a major risk factor for heart attacks. "Our research raises the possibility that it is not the actual smoke that causes heart disease, but something mediated by the smoke," he said.

That "something," Dr. Reaven said, may be smoking's ability to cause insulin resistance and a cluster of other traits that increase the risk for a heart attack.

ORANGE COUNTY REGISTER JAN 20 1995

Smoking called greater cancer risk for women

2-Accept 3

Women who smoke are at a greater risk of developing lung cancer than men, according to scientists at the Institute of Cancer Research in Surrey, England, and a team from Norway.

The researchers found that women suffered more damage to their DNA than men even when the figures were adjusted for the number of cigarettes smoked. David Phillips, a scientist and team leader of the institute's section of molecular carcinogenesis, says the research that focused on 63 Norwegian patients supports preliminary evidence from the United States that women run about twice the risk of men of lung cancer from smoking.

2041128932

HIGHER CIGARETTE TAX UNDER STUDY

From Gannett News Service, Date: 01/20/95
By KYLE HUGHES

The state Health Department is considering recommending drastically higher cigarette taxes and requiring antismoking signs in restaurants and other places smoking is still allowed, officials said Thursday.

The state cigarette tax has been 56 cents per pack since 1993. Dr. Robert Randles of the state Public Health Council, a Health Department panel, said raising the tax to about $1 per pack would discourage smoking by teenagers.

Both the sign and tax-hike proposals are up for discussion at Friday's meeting of the Public Health Council, which sparked a court battle when it tried to ban public smoking a few years ago.

The tax hike would require the approval of Gov. George Pataki and state legislators, and the sign requirement would have to be approved by Pataki's nominee for Health Commissioner, Dr. Barbara Ann DeBuono.

Randles said the council is looking at recommending the placement of signs warning of the dangers of second-hand smoke in restarants and other places.

``Even if you put aside the cancer issue, there are a lot of different reasons why a smoky atmosphere is unhealthy,'' said Randles, a vice president of St. Peter's Hospital in Albany and chairman of the Public Health Council committee that is studying the proposal.

Health Department spokeswoman Lois Uttley said the sign proposal was up for discussion, not action, because of Pataki's 90-day moratorium on new state regulations.

Pataki promised to reduce burdensome state rules during his successful campaign to unseat former Gov. Mario Cuomo. He also ran on a tax-cutting platform and voted against higher cigarette taxes as a state legislator.

Pataki press secretary Robert Bellafiore said he wasn't familiar with the antismoking sign proposal, and couldn't immediately say what the new governor thought of the idea. Pataki traveled to New York City Thursday.

California requires similar signs to be posted, warning that tobacco use causes cancer. ``There's no draft language for what would be on the sign at this point,'' Uttley said. ``It's still really in the concept stage.''

Randles said he thinks the signs should carry a message about the danger of second-hand smoke, since cancer and other health warnings now appear on the side or cigarette packs.

He said he wasn't sure if the new signs would be required in bars, since they have been exempted from previous antismoking rules.

(Cont'd)

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'Cont'd' An antismoking advocate who has seen the signs in California said Thursday he thought it was a good idea for New York.

``Information can never be bad,'' said Joe Cherner, president of Smoke Free Educational Services. ``The more information people have access to, the better things are for us and the worse things are for the tobacco cartel.''

The Public Health Council tried to ban smoking in public places, but the state Court of Appeals struck down the rule in 1987, saying that only the Legislature has the power to enact such a sweeping measure.

Lawmakers finally passed a Clean Indoor Air Act in 1989, after a 13-year fight by antismoking groups.

New York now has some of the toughest antismoking laws in the nation. Public smoking is banned in Suffolk County, and in April smoking will be further restricted in restaurants in New York City.

Uttley said the Health Department's legal staff believes the proposed sign rule would not face the same kind of court challenge that brought down the proposed smoking ban.

GNviaNewsEDGE

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SACRAMENTO BEE JAN 2 0 1995

Judge halts use of tobacco taxes for health care

By Ramon Coronado
Bee Staff Writer

A Sacramento Superior Court judge ordered state officials Thursday to immediately stop the diversion of $128 million in tobacco taxes from anti-smoking education programs to primary health programs.

The order by Judge Roger K. Warren is expected to be a multimillion-dollar boon to anti-tobacco education programs and tobacco-related research efforts throughout California.

"We are very happy with the judge's order," said George Waters, attorney for the American Lung Association, one of several parties that joined in the lawsuit.

The legal fight targeted revenue from a 25 cents-per-pack tax imposed by Proposition 99 for use in smoking prevention, medical research of tobacco-related diseases and related treatment.

Last year, the Legislature passed an amendment to the proposition that allowed the state to take Proposition 99 funds to help finance health care for the poor.

The American Lung Association and others alleged that diversion of funds was illegal because such spending was not intended under Proposition 99, the "tobacco tax initiative" passed in 1988.

The state had argued that using the funds to pay for such programs as health screenings for the poor was in step with the intent of the law because people were advised of the dangers of smoking.

In a non-jury trial last month, Warren agreed with the Lung Association.

Warren set a February court hearing for attorneys to argue whether the state will be obligated to replenish the tobacco health education fund for services paid before Thursday's ruling. The suit applies only to fiscal years 1994-95 and 1995-96, covering $128 million in taxes.

2041128934

TRANSLATION

Leading article in Ekstra Bladet, Tuesday January 24, 1995: (A DANISH TABLOID)

DAMNED SWEDES

Ingratitude is the way of the world. A depressing life experience, especially when it comes to dealing with the Swedes.

Once again our neighbours confirm that deceit and fraud are parts of their national character.

Danish politicians and civil servants had hardly finished years of unremitting labour to get the Swedes into the EU before these dastards on the Asiatic side of The Sound (Øresund, editors note) try another treacherous, mean trick:

To show their gratitude they launch a frontal attack on one of Danish industries major export successes, the Prince cigarette.

"Killed by a Prince", "Abused by a Prince" and "Raped by a Prince" ring from billboards in the Swedish streets and Swedish newspapers hasten to follow this up.

Behind the campaign you find a group of politically correct Swedes - pretty close to being the most nauseating type of human being to be found in these latitudes.

Because they hate not being American they try to force Europe into a US of A standard according to which we all are obliged to run six kilometres each morning, live by the fibre fundamentalists recipes, drink coffee without caffeine and cognac. All in all live a life ending at the age of 110 by boredom.

Typically they first hit on Denmark this sinful country which helped them into the Europe they want to reform.

As usual the preachers of health have common sense on their side:
Sure it is unhealthy to smoke. In fact quite a few die from it.
And since Prince is the largest selling cigarette brand in Sweden and the rest of Scandinavia it follows by mathematical logic that the consumption of this Danish brand results in more death than any other cigarette.

But an active consumer effort is needed to make cigarettes dangerous. First of all you have to buy a box of cigarettes, second you have to light the cigarette and third you have to inhale.

But why the Danish Prince is put before the firing squad you have to be a "Swedolog" (expert in Swedish affairs) to understand.
Fortunately we are such "Swedologs" and consequently we can offer an explanation:
The Swedes have mercenary souls mixed with hypocrisy .
They simply can not accept a Danish cigarette being the major brand in the marketplace.

This explains why the campaign is not accusing "John Silver" or any other sort of rubbish they smoke when they find the snuff to disgusting.

This in fact is a clear attempt to protect a diminishing home market - or what the EU calls a technical obstruction of trade. And that sort of thing is strictly forbidden.

Should the Swedish wish to protect human lives against all lingering dangers be taken serious, the campaign should be broadened.
Thousands are killed in the traffic each year. What says of a billboard saying "Raped by Volvo" or "Abused by SAAB"?
War is dangerous, too. Some have even heard about others being killed in this context.
When are we going to see a Swedish billboard proclaiming "Killed by Bofors"?

The answer: Never!

That is why we step out into the Copenhagen twilight, get up on the roof of the University hospital, clench our fists in anger toward Barsebäck (a Swedish nuclear plant, visible from Copenhagen, located without asking the Danes, editors note) and at full blast from our smokers lungs shout:
YOU (DAMNED) SWEDES.

KHAAJANEN: "dastards" is correct, meaning "fega och lömska"

2041128935

Ekstra Bladet page 4 TRANSLATION

SWEDES IN HATRED WAR AGAINST PRINCE

Fine Danish cigarettes named as murder weapons and rapists

Instantly after Sweden has joined the Union our sister nation runs amuck in a hysterical campaign against the splendid Danish Prince cigarettes.

An organisation called "A smokefree Generation" are fuming with anger behind a hostile attack on Skandinavisk Tobakskompagni in Copenhagen. This is done by thousands of warnings posted all over Sweden and the only scapegoat is the cigarette brand Prince.

The four slogans from this war sound ominous: "Seduced by a Prince", "Raped by a Prince", "Abused by a Prince" and "Murdered by a Prince". Such boorish Swedish is easy to translate: They want Danish fags out of their market.

- Smoking is a silent epidemic which kills, says the smokefree general secretary ominously on the front pages of Aftonbladet yesterday. The Swedish cigarette brands are not mentioned on the billboards.

- I don't know why they hit on Prince, but according to Aftonbladet it is because Prince is the best selling cigarette brand in Scandinavia, says Claus Bagger, Skandinavisk Tobakskompagni, to Ekstra Bladet. The cigarette empire was not aware of the Swedes starting a smoke war against Denmark prior to the disclosure by the Swedish press yesterday.

-At this moment we are evaluating the campaign which it seems was launched in Sweden today. We do not comment on this prior to such a study.

-Are the Swedes more hysterical than we are?
- I don't hold any opinion on this.
- Is this the American puritanism sneaking in?
- I don't know. But this is not the first time the Swedes have launched such a campaign. They launched a similar campaign against Philip Morris and Marlboro a year ago. We will examine this new campaign and then form an opinion, says Claus Bagger.

The Swedes uses lots of x-rays of black, cancer lungs, but the fact is that House of Prince can look forward to an increase in market shares. That happened to Marlboro when the campaign using churchyard pictures was run. The many billboards ment a lot of free advertising and the Marlboro sales went up.

This years Prince haters campaign is primarily thought as a warning to smoking teenagers, not least "the girls" who smoke more than "the boys".
The Swedish organisation against Prince does not know if the campaign will effect consumption.

- Hopefully it will lead to a smaller number of smokers. But at first we want to bring up the problem for discussion and we want people to think, says the general secretary to Expressen.
That newspaper publishes the ugly posters and asks in the headline: "Do you feel like butting?"

BT - the other Danish tabloid - ~~uses~~ page 29.

Essentially the story is the same - some quotes:

Greta Weding, general secretary for A Smokefree Generation says that this campaign will not be published in Denmark since there is no Smokefree Generation in Denmark. (Norway not mentioned, editors note).

Press officer Merete Strand, The Danish Cancer Society, will not exclude the possibility that a similar campaign could be run in Denmark:
"But we would have a pre-test of the posters and we would have some lawyers looking into the matter before publication".

2041128936

Turning a New Leaf

In Nicaragua, passion fades for smoking

By John Otis
SPECIAL CORRESPONDENT

REPORT FROM NICARAGUA

One in a series of reports from Latin America and the Caribbean.

Managua, Nicaragua — During Nicaragua's civil war, when most vehicles in the battle zones were targets, the contra rebels refused to fire on distribution trucks from the tobacco company. In a nation of heavy smokers, sabotaging the cigarette supply was no way to win hearts and minds.

A decade later, Managua restaurants have introduced no-smoking sections. Hourly radio spots pound home the message that cigarettes cause cancer. And legislators are considering a bill that would prohibit smoking in public buildings, theaters and buses.

Nicaraguans aren't the only ones trying to kick the habit. Throughout much of Latin America, there is a small but growing backlash against smoking. Although cigarettes remain far more popular south of the border than in the United States, they are increasingly viewed as a menace to society.

"This image of elegance — of the Mata Hari woman with the cigarette in her mouth — has disappeared," said Carlos Linger, who heads the Managua office of the World Health Organization. "There is a greater interest in treating tobacco as a public health issue, as a source of sickness, as something that kills."

In Chile, consumer groups want to ban cigarette billboards and TV promotions altogether. Costa Rican President Jose Figueres will star in a series of anti-smoking TV spots. Even Fidel Castro has stubbed out his trademark cigars to promote better health habits in Cuba. In fact, over the past five years, most countries in Latin America have passed laws or adopted private sector initiatives to place some restrictions on smoking in public, cigarette advertising and sales to minors.

Analysts say the trend has been influenced by the often militant outcry against smoking in the United States. In addition, a health-and-fitness fad has hit the region, and there is a growing awareness of the dangers of all drugs — from cocaine to alcohol to nicotine.

"You see the face of disgust when people smoke in the buses and at the movie theaters," said Azucena Larios, a secretary at Los Ranchos, a Managua steak house which opened a no-smoking section in September. Larios said the new dining room has been a resounding success.

The campaign could save millions of lives. Unless smoking rates begin to fall, up to 7 million people in developing countries could die annually from smoking-related diseases during the next three decades, according to the World Health Organization.

But if the anti-smoking forces have come a long way, Latin America has by no means weaned itself from tobacco.

Farmers often receive easy credit from state banks to cultivate tobacco leaves. The cigarette industry is a major source of jobs and a powerful corporate sponsor. TANIC, the Nicaraguan tobacco firm, supports cultural exhibits, tree-planting drives and vaccination campaigns, and was recently honored by the health ministry for its community work.

Over the years, governments have become addicted to the taxes generated from cigarette sales. Two years ago, Argentine President Carlos Menem vetoed a strong anti-smoking bill largely on economic grounds. Tobacco sales account for 8 percent of Nicaragua's tax revenue.

For now, the smoking rate remains relatively high. One survey estimated that 37 percent of men and 20 percent of the women in Latin America smoke. Even poor people light up because single cigarettes can be sold.

"I can quit whenever I want," insisted 15-year-old Oscar Gutierrez, as he bought two Honduran-made cigarettes.

And U.S. tobacco companies are finding out that for every smoker who quits in Seattle and Salt Lake City, new smokers can be targeted in Sao Paulo and Santiago. Due to a reduction in tariffs and aggressive marketing, U.S. cigarette exports to Latin America are booming.

Little by little, however, the anti-smoking message seems to be taking hold. Health experts predict Latin American nations will continue to restrict smoking because it makes good economic sense. The tobacco companies "are powerful, but we have the truth on our side," Linger said.

THE NEW YORK TIMES **INTERNATIONAL** SUNDAY, JANUARY 15, 1995

Brazil Comes Down Hard on Cigarette Ads

By JAMES BROOKE
Special to The New York Times

SÃO PAULO, Brazil, Jan. 10 — No longer will a Brazilian soap opera villain drag on a cigarette while plotting perfidy. No longer will a Brazilian economist puff on camera while explaining Government perfidy.

In one of the widest attacks on smoking in the third world, Brazil's Health Ministry is banning cigarette advertising from sporting and cultural events and on television until 11 P.M. Prime-time shows and television news programs will also be forbidden from showing people smoking.

Advertisements will not be able to suggest that smokers are socially, professionally or sexually successful.

"Pretty soon, the Government will ban television interviews with people who are poorly dressed," grumbled Gilberto Leifert, acting president of Conar, the advertising industry's self-regulating council, which says it will challenge the restrictions as unconstitutional.

The rules for newspapers are scheduled to go into effect late this month, those for magazines in February and those for television in mid-May. With sponsorships of jazz concerts, dance festivals and automobile races at stake, tobacco industry leaders are trying to kill the new rules, while the Health Ministry says it is certain that it will prevail.

To reach those who cannot read, a graphic warning will cover one quarter of the front of each pack. One of the eight designs shows a black cloud hanging over a fetus carried by a smoking woman.

Tobacco companies are increasingly heading to third world countries with large, young populations, like Brazil.

In 1993, Brazil overtook the United States to become the world's largest exporter of raw tobacco. In 1994, Brazil exported $1 billion worth of tobacco, double the level of five years earlier.

On Brazil's TV shows, no smoking, please.

Next year, Souza Cruz S.A., a subsidiary of British-American Tobacco, is to inaugurate in southern Brazil the world's largest tobacco-processing plant, a $54 million, 250-acre factory capable of processing 100,000 tons a year.

Despite the export drive, the average Brazilian increasingly declines a proffered cigarette. After 20 years of steady growth, Brazilian consumption has plummeted, from 164 billion cigarettes in 1990 to 103 billion in 1994. Taking into account population growth, per capita consumption has dropped 40 percent in five years.

"We believe that a great part of the reduction was because of our campaigns," said Marcos Moraes, a cancer surgeon and director of the National Cancer Institute.

Tobacco industry representatives counter that Brazil's consumption drop merely reflects the recession here in the early 1990's.

"The fall is attributed more to the fall that the country is going through, the erosion of salaries," said Ronaldo Costa, director of the Brazilian Tobacco Industry Association.

But Brazil has registered 5 percent economic growth for the last two years — a time when tobacco consumption continued to tumble.

Some Brazilians have resisted smoking restrictions, calling them one more copycat import from the United States.

"We can't fall into the American paranoia," Clodoaldo Celentano, legal affairs director for the local Philip Morris subsidiary, told a Brazilian reporter. Gilberto Dimenstein, a newspaper columnist for Folha in São Paulo, wrote recently: "I'm moved. I'm even ready to start smoking again, to help Brazil."

ADWEEK/January 16, 1995

PRAGUE Smokers cough

When Eastern Europe opened to the West five years ago, it looked like a dream market for Western cigarette companies. The region was big and, after four decades of Communist isolation, still untouched by Western limits on tobacco advertising.

But today, ad laws are tightening here. Beginning this year, Poland has banned all tobacco commercials on television and radio. Co[illegible]d)

(Cont'd)

GLOBAL QUARTERLY EUROPE

The Czech Republic is due to follow suit by spring, but will allow radio ads between 10 p.m. and 6 a.m.

The new rules in the region's two fastest-growing economies are a sign that Eastern Europe's governments are increasingly interested in applying Western standards to their tobacco markets.

"Eastern Europe is 10 to 20 years behind the West in developing smoking restrictions, so this is a first step to catch up quickly," says Dr. Alexander Sír of the Czech government's National Center for Health Promotion. Sír, who helped push the new legislation through a lengthy public debate on smoking and health over the last two years, notes that 39% of Czechs smoke, compared to 30% of Western Europeans. Regionally, Eastern Europe consumes 650-700 billion cigarettes annually, compared to 600 billion in Western Europe and 500 billion in the U.S.

In Prague, tobacco ads are appearing on alternate media.

The Polish and Czech legislation is Eastern Europe's first attempt to codify what to date has been an on-again, off-again relationship between tobacco products and the electronic media. During the Soviet era, commercials for cigarettes and most other products were prohibited on state-controlled radio and television throughout the region. But since the collapse of Communism in 1989, private stations have developed quickly in some countries and claimed the right to accept advertising of all kinds.

In Poland and the Czech Republic, four of the eight national networks, plus the vast majority of local and regional outlets, are now privately owned. By contrast, Hungary and most other Eastern European nations have yet to privatize their radio and TV systems, which continue to ban tobacco ads. There, cigarette companies have concentrated on point-of-sale advertising.

Poland's new private stations started airing tobacco ads last year, as they began to gain enough audience share to interest clients. In the first six months of 1994, tobacco companies spent a little over $100,000 on TV ads and another $150,000 on radio, according to Joanne Jankowski of AMER Research in Warsaw, which monitors media spending. Most of the money came from R.J. Reynolds, which in May opened a $33-million joint-venture plant near the capital. Last year the company aired TV ads for its Camel brand using Western-style campaigns usually seen in cinemas.

But the public debate over smoking in Poland and the Czech Republic already has scared the majority of advertisers off the airwaves and onto billboards or into print. "The big cigarette producers signed a declaration in 1993 not to advertise on television or radio even before the ban was passed," says Toni Podniesinski, general manager of Ogilvy and Mather Poland, which handles Rothman's of Pall Mall Ltd., the maker of Rothman's and Golden Americans. (Last year's Camel campaign aired in defiance of that agreement.) Podniesinski observes that tobacco producers, which he estimates spend $25-30 million a year on ads in Poland, don't want to get burned in a market where anti-smoking legislation is a new phenomenon and the temperature of legislators is still to be determined.

In the neighboring Czech Republic, where a law last year limited tobacco commercials on electronic media to previously signed contracts, advertisers have stayed away from private television and radio completely. After initially planning to advertise on TV, they waited in anticipation of new legislation (and in response to a very public debate on possible restrictions). Now, as the new law permits nighttime radio spots, Czech listeners may soon hear their first tobacco commercials on the airwaves. Tobacco advertisers are likely to give radio at least some of the estimated $5-10 million they spend annually for advertising here, says Jiri Mikes, vice president of the Association of Advertising Agencies in Prague.

As the debate over smoking continues, anti-smoking proponents promise more pressure on tobacco products. Health officials like Dr. Sír are angry that since the switch to a free-market economy, Eastern Europe's historically high smoking rate has resumed an upward climb, from a low of 36% back up to the current 39%. Sír predicts that the Czech and other Eastern European governments will adopt all standard Western restrictions on tobacco sales as they push for membership in the European Community by the year 2000.

In response, cigarette advertisers are trying to preempt future laws by regulating themselves first. The tobacco advertisers' tack apparently is working. "The industry's self-regulation is going well beyond the government's own restrictions," says Pavel Cerny, editor of the Czech media and advertising trade magazine *Strategie*. "I think by now any further legislation could not get enough interest to pass Parliament." —*Charles Recknagel*

South China Morning Post MONDAY JANUARY 16, 1995

Tobacco advertising immoral

PIO

LETTERS TO THE EDITOR

WRITE: South China Morning Post, PO Box 47, Hong Kong
TELEPHONE: 2565 2292 – **FAX:** 2811 1048 or 2811 1278

I REFER to the letter from Hayley Kan of the Tobacco Institute of Hong Kong (*South China Morning Post*, December 26), concerning tobacco advertising.

No doubt, the dynamics of smoking are complicated. While it may not have been proven that there is a definite cause-effect relationship between advertising and smoking, there is strong circumstantial evidence. It should be recognised that cigarette advertising's cultural function is much more than the selling of cigarettes. The images of cigarette advertising are a catalogue of social identities, each matched through market research to the anxieties and aspirations of different sections of the market, especially teenagers.

The Smee Report, published in London, by Her Majesty's Stationary Office, in 1993, confirmed that tobacco advertising both induces and reinforces children's smoking. Cigarette advertising is disproportionately effective with young smokers. Teenagers buy the most heavily promoted cigarettes. Children who are aware of tobacco advertising and those who approve are also more likely to be smokers. Images that children derive from advertising encourage them to smoke. Since a child's intention to smoke is considered to be a good predictor of future smoking behaviour, it seems reasonable to conclude that a belief in the psychological benefits of smoking, derived from advertising, precedes and contributes to the adoption of smoking. No one with a sound mind would argue that smoking is good for our health. It then goes without saying that it is our obligation to protect our younger generation from receiving unnecessary exposure to messages that induce them to a lethal habit.

The recent withdrawal of the Embassy Regal "Reg" advertising campaign in England and Scotland, as reported in the *British Medical Journal* in October 1994, demonstrated the power of advertisements in influencing young people. Although it was claimed that this advertisement aimed at only people aged over 35, it was found that it got through to children more effectively than to adults. Through a complaint by the Health Education Authority, the tobacco company had to withdraw this advertising campaign.

Two local studies carried out by the University of Hong Kong and the Chinese University of Hong Kong, also supported the impact cigarette advertisements have on teenage smoking. A study by the Department of Community Medicine of the University of Hong Kong, strongly indicated that children's smoking habits were influenced by tobacco promotional activities and advertisements. The findings of the report on *Cigarette Advertisement and Juvenile Smoking Behaviour*, by the Department of Marketing of the Chinese University of Hong Kong, clearly indicated that cigarette advertising has a significant effect on the cigarette smoking propensity among local juveniles, even when other variables are controlled.

In its *Action Plan on Tobacco or Health for 1995-1999*, the World Health Organisation Regional Office for the Western Pacific calls for all governments to implement comprehensive tobacco control measures by 1999. These include a call for a "tobacco-advertising free region by the year 2000", as part of comprehensive legislation on tobacco or health.

I consider tobacco advertising to be immoral and unethical, because cigarette advertising establishes such imagery among children who are cognitively too immature to understand the purpose of advertising. Tobacco advertising is ubiquitous, appearing on billboards, promotional displays at youth oriented magazines and events, on television during sporting events, and on line extenders such as T-shirts, posters and caps. In the absence of a complete ban on cigarette advertising, there is a need to identify and guard against campaigns that have a particular appeal for young people.

Hong Kong has achieved a very good level of health as reflected by the internationally accepted health indices. Our infant mortality rate is among the best in the world. Our children and young students should be enjoying the healthiest period of their lives. It would be very sad if instead they suffer from smoking-associated illnesses or die prematurely. Young people should therefore be protected from tobacco advertising as at this stage they are most receptive to any tobacco promotional activities.

We welcome the Tobacco Institute's commitment to a policy of preventing young people from starting to smoke and its plan to launch a no smoking programme for young people in 1995. I hope that more will be done in this direction.

S.H. LEE
Professor of Community Medicine
Chinese University of Hong Kong. Chairman
Hong Kong Council on Smoking and Health

THE NEW YORK TIMES, WEDNESDAY, JANUARY 25, 1995

THE MEDIA BUSINESS

Advertising | Stuart Elliott

A tobacco company identifies Texas firefighters as a cause.

THE United States Tobacco Company, under fire from anti-tobacco activists for what they fault as marketing misdeeds, is fighting fire with fire. To be precise, with firefighters.

U. S. Tobacco, in a highly unusual step for a tobacco company, is joining a lengthy list of advertisers that have embraced a promotional strategy known as cause-related marketing. In advertising by Warwick Baker & Fiore that begins appearing today across Texas, and which will be supplemented by direct mail and public relations campaigns, the company will disclose details of a promotion to help raise money for a new Texas Firefighter's Emergency Relief Fund.

"Our company has traditionally been very philanthropic, giving literally millions of dollars away a year," said Robert Rothenberg, the executive vice president at U. S. Tobacco responsible for sales and marketing.

"What we wanted to do was bring those activities closer to the consumers who enjoy our products," he added in a telephone interview from the company's Greenwich, Conn., office, "and give them an opportunity to participate." The promotion comes after two smaller cause-related marketing efforts, also to benefit firefighters, tested last year in Fort Worth and Tennessee.

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U. S. Tobacco, a unit of UST Inc., sells snuff and other so-called smokeless tobacco products under brand names like Copenhagen and Skoal. Through April 24, the company will donate an unspecified percent of its sales in Texas to the fund, which was co-founded by U. S. Tobacco and the Texas State Association of Firefighters.

Print advertisements, brochures and posters carry the headline "Even heroes need a hand." They describe the fund's purpose as providing "timely aid to firefighters as they cope with their uniquely demanding lives." U. S. Tobacco has pledged a minimum donation of $200,000, with no maximum; the two tests raised $32,000 in Fort Worth and $148,000 in Tennessee.

Warwick Baker & Fiore

A campaign by the United States Tobacco Company promotes a fund to help Texas firefighters.

"We wanted to support a worthy cause in a state where we do good business," Mr. Rothenberg said, "and give something back to the communities where our consumers work and live."

"We believe we're a responsible corporation," he added.

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However, U. S. Tobacco has been assailed by anti-tobacco activists, who assert the company is aiming its sales pitches at minors and manipulating the amount of nicotine that users of its products absorb. Though U. S. Tobacco, which dominates the nation's estimated $1.1 billion market for snuff, has strongly denied those allegations, they have tarnished the company's reputation.

Burnishing a corporate image, along with the more traditional goal of increasing sales, are the primary reasons that advertisers turn to cause-related marketing. They hope to attract the attention of fickle, harried shoppers by helping social, cultural, political and philanthropic organizations, whether to raise money for the arts and education or fight problems like hunger and homelessness. Among marketers underwriting cause-related efforts are American Express, the Body Shop, Carillon Importers Ltd., the Chrysler Corporation and the Seagram Company.

But marketers of tobacco products have generally shunned the practice; the Philip Morris Companies donates to the arts and other causes on behalf of all its units rather than its tobacco operations.

The reason for this paucity seems clear: If tobacco marketers associate themselves with causes, skeptics will suggest they promote health-oriented causes like fighting cancer or heart disease.

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"It's disingenuous," said Scott Ballin, chairman at the Coalition on Smoking or Health, a Washington organization that coordinates the anti-tobacco activities of the American Cancer Society, the American Heart Association and the American Lung Association.

"They're helping prevent people from dying in fires," he added, "yet at the same time they're pushing smokeless tobacco down their mouths and throats and making them die from cancer."

Mr. Rothenberg, when asked if U. S. Tobacco had considered a health-oriented, cause-related marketing promotion, replied: "My recollection of the process was that when the idea came up for firefighters, it was 'Bingo!' Everyone felt our consumer base of adult males could relate to firefighters. We probably didn't go much past that."

In addition to the ad work by Warwick Baker in New York, the direct mail is being handled by Walt Klein & Associates in Winston-Salem, N.C., and the public relations is being handled by Read-Poland Associates in Austin, Tex. Welsh Marketing Associates in New York served as the marketing consultant.

As for whether the program might be expanded to other states or nationally, Mr. Rothenberg said, "We want to evaluate how it goes in Texas and see where we go from there."

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THE WALL STREET JOURNAL

THURSDAY, JANUARY 19, 1995

ADVERTISING / By KEVIN GOLDMAN

Cowboy Trademark Suit

Philip Morris Cos. filed an unfair-competition suit in federal district court in New York against **Star Tobacco** Corp. for using a cowboy-themed marketing campaign for its Gunsmoke cigarette brand.

In the suit against the Petersburg, Va., company, Philip Morris claimed that "it has become increasingly evident that Star's plan is to market its new cigarette brand by imitating Philip Morris's Marlboro Country American West" theme. Cowboys have been used to market Marlboro since the 1950s.

Star Tobacco's chief executive officer, Samuel Sears Jr., declined to comment on the suit. But Philip Morris also claimed in the filing that Star's vice president of marketing, Scott Feit, is a former Philip Morris employee.

Additionally, Philip Morris said the use of typefaces and a cowboy illustration in the Gunsmoke ads infringes on the company's trademarks. The company also objected to the use of the slogan "New Man in Town," claiming it indirectly refers to the Marlboro Man.

Philip Morris is asking that Star and its employees be restrained from selling or advertising the Gunsmoke brand in any manner that misappropriates the Marlboro image. It also is seeking recovery of any profits made from the sale of Gunsmoke cigarettes and treble damages resulting from "such false advertising."

SEATTLE TIMES JAN 19 1995

IN SESSION

Watching the Legislature

Plain cigarette packs urged

State Sen. Mike Heavey, D-West Seattle, is convinced that colorful packaging is an enticement for people, particularly young people, to buy cigarettes.

So he's introduced Senate Bill 5300, which would order generic packaging for cigarettes.

The bill states that "the packaging shall consist of a white background with only the brand name printed in black."

Heavey said he also toyed with the idea of ordering tobacco companies to attach "Mr. Yuk" stickers to cigarette packages.

"We've just got to do something to convince young people that smoking isn't cool," he said.

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Morning Newsbriefs; 01/13/95

"Japan Tobacco To Market a Smokeless, Odorless Cigarette This Year"
Nihon Keizai Shimbun (01/06/95) [full text of translation]

Facing a growing anti-smoking movement, Japan Tobacco Inc. (JT) announced on January 5 that it is proceeding with a plan to market a "smokeless cigarette" in 1995. Sources say that the cigarette will have a small "fire kindler" placed inside of it which will not burn the tobacco but will heat it up enough so that the nicotine can be inhaled. In addition to being smokeless, the new cigarette is expected to solve the problem of tobacco odor permeating into hair and clothing, and the risk of fire will be greatly reduced.

Sources also say that a number of prototypes of the smokeless cigarette have already been developed, but the task in the coming year will be to improve on taste, which has been unsatisfactory in samples to date. Although the details are yet unclear, the smokeless cigarette will have a combustible, charcoal-like substance on the end which is to be lit. The heat from the tip will warm up the tobacco, emitting the taste of the tobacco but not the smoke. An added, special ingredient has been designed to help bring out the tobacco flavor.

Although trace amounts of smoke will most likely be emitted from the cigarette, the fact that the leaves will not burn should prevent the creation of the secondhand smoke that non-smokers detest and has become so controversial. As long as the cigarette tip doesn't come in direct contact with paper or cloth, the risk of fire is very low. One researcher said that if all goes well, "we might see the disappearance of the smokers who, in order to escape family censure, are forced to retreat to their balconies for their evening smoke.

With the anti-smoking movement gaining momentum every day, the smokeless cigarette may spell the fate of tobacco makers both domestically and abroad. Recently an American cigarette maker test- marketed a similar smokeless cigarette but found smokers dissatisfied with the taste, and it never hit the market. In Japan, Seiko Corp. began, in late 1989, selling a smokeless cigarette that enabled the user to inhale a tobacco extract along with air, but consumers complained it didn't provide them with the sensation of smoking, and the product went off the market within two years.

JT's determination to develop a better product comes in lieu of recent statistics which have shown that the male smoking population has decreased for three consecutive years to 59%, while the share of the cigarette market by foreign competitors has increased to 19.1% overall.

Foreign cigarette makers have succeeded in large part by marketing low-tar tobacco brands which currently comprise five to six percent of the total market. Last November, JT also came out with its "Alpha Box" brand which was supposed to have contained approximately one milli- gram of tar per cigarette, but post-sales tests showed many of the cigarettes to exceed two milligrams of tar, resulting in the halting of manufacture and a recall of the brand after only twenty days on the market.

The smokeless cigarette represents the third new market in the industry and follows up on the low-tar cigarette boom. Development of this market does not guarantee the product will be accepted by non-smokers, however, and there are fears that smokers as well would rather quit than go to such lengths or make compromises in taste. Even supposing that development proceeds smoothly, acceptance by society in general remains a moot question.

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SEATTLE POST-INTELLIGENCER JAN 14 1995

additive-free SMOKING

American Spirit's 'just tobacco' cigarettes draw on trend toward all things 'natural'

By Vanessa Ho
P-I Reporter

PDI

If you're going to smoke – and lug around all the physical and social baggage that implies these days – you might as well do it naturally.

That could be the motto of the Santa Fe Natural Tobacco Co., whose increasingly popular Natural American Spirit cigarettes offer smokers "100 percent chemical-additive-free Virginia tobacco and nothing else."

While large tobacco companies have been under fire for using chemicals and additives in cigarettes, American Spirits have become trendy, riding the tidal wave of enthusiasm for all things "natural."

Appearing on the market 10 years ago, Spirit had sales of $10 million in 1993, according to one industry analyst. The privately held company would not confirm that figure, but said its sales have increased 50 to 95 percent a year for seven years.

Despite such growth, Spirit remains a midget in the marketplace. The best-selling brand, Marlboro, posted domestic sales of $12 billion in 1993.

Spirits are sold in smoke shops, newsstands, natural food stores and trendy cafes. And though no evidence exists – and the company doesn't claim – that Spirits are any less dangerous than mainstream cigarettes, they appeal to smokers turned on by a new-agey, alternative consciousness and who are concerned about their health, even if resigned to their addiction.

"If I'm going to smoke, I'd rather at least smoke something chemical-free," says Dawn Gamman, a 27-year-old barber at Rudy's Barber Shop in Capitol Hill.

"I already have to deal with tar and nicotine and carbon monoxide," she said. "I don't want to have to deal with added chemicals and toxins, or the gunpowder used on papers of other cigarettes, or fiberglass filters."

So popular are the cigarettes that out of 200 brands at Tom's University Smoke Shop on "The Ave," Spirits are the best-selling, going at a rate of three to four cartons a day.

At the Lux Coffee Bar in Belltown, home of bi-weekly "Sweet Immolation – Burning on the Inside" poetry readings, Spirits are the most-requested brand.

And at Steve's Broadway News in Capitol Hill, they sell far better than any other brand, prompting the store to create a heaping display of the distinctive sky-blue packages behind the register.

"I tell people, 'You can get a cleaner form of cancer from these,'" cashier Elliot Meacham said, pointing to what he called "Spirit Mountain" looming behind him.

"Most people understand the irony."

Though Santa Fe Natural makes no health claims, it says customers frequently report smoking less than they did of their former brands, perhaps because Spirits have about 25 percent more tobacco per cigarette than most. The benefit of smoking Spirits isn't better health, the company says, but the comfort of knowing that nothing has been added to the tobacco (though it's not pesticide-free).

Last year, when the Food and Drug Administration began pushing to regulate nicotine as a drug, it accused tobacco companies of adding ammonia to tobacco to boost nicotine's impact. Two of the chemicals added to tobacco were linked to liver damage and convulsions in lab animals.

To quell the attacks, major tobacco companies released a formerly top-secret list of 599 chemicals and additives used in cigarettes. They said most, such as chocolate and rum, are added in tiny amounts for flavoring, and almost all are FDA-approved for use in food and beverages.

The FDA and the American Health Foundation, which has studied cigarettes for 20 years, countered that because additives are safe in foods doesn't mean they are safe when burned and inhaled in cigarettes.

Federal law doesn't require companies to divulge which additives, or how much of them, are used in cigarettes. Also, companies do not specify which additives are used in which brands. So toxicologists say they don't know precisely how much danger an individual cigarette poses.

That uncertainty is one of Spirit's major selling points.

"The primary advantage to smoking Natural American Spirit is that you know what you are smoking and what you are not smoking," said Robin Sommers, Santa Fe Natural Tobacco Co.'s president and CEO.

Rochelle Doan, director of programs at the American Lung Association of Washington, cautions smokers against rationalizing their habit by confusing "all-natural" with "healthy."

"I know of people who say, 'I only smoke American Spirits,'" says Doan. "I say, 'Don't be deluded, you're not doing anything different to your body. A cigarette is a cigarette. It still contains tar and nicotine.'"

A cigarette, yes. Cancer-causing, fetus-injuring, environment-polluting, yes. Sommers does not deny any of this. But he calls his company a "revisionist" model for all tobacco companies.

Santa Fe Natural won't sell its products in vending machines, supermarkets or convenience-store chains, citing a policy that cigarettes shouldn't be easily available to minors. Its small, low-key ads have appeared in spiritual or eco-conscious magazines such as Shaman's Drum and Magical Blend and in Utne Reader and Vegetarian Times.

"We don't use image advertising," Sommers said. "We don't show young people on water-skis. We won't advertise in the Joe Camel genre at all."

The cigarettes sell well in such progressive cities as Seattle, San Francisco and Boulder, Colo., and in liberal college towns such as Madison, Wis., and Berkeley. And the company shows some concern for the environment; it wants to replace its papers, now made from flax fiber, calcium carbonate and citric acid, with unbleached cigarette papers.

Although Santa Fe Natural is not a Native American-owned business, it makes liberal use of ethnic imagery. The logo on its packages depicts a "tobacco chief," a man in a feathered headdress smoking a peace pipe.

Its ads read:

"If you use tobacco the way Native Americans intended . . . or if you smoke out of choice rather than habit . . . here is an alternative you should try."

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Sommers says the Indian motif is used out of respect for tradition and history. Tobacco was introduced to whites by American Indians, who used it ceremonially and medicinally. Also, the company donates to the Native American Rights Fund and has given $6,100 to the American Indian College Fund since 1990.

Sommers himself is a runner and doesn't smoke. So how does he rationalize selling his cigarettes to others?

"The issue is that people are not going to stop smoking," said Sommers. "Outlaw cigarettes (and) people are not going to stop. Let's provide the best possible alternative."

Perhaps no one embodies the ironic paradox of an American Spirit smoker better than "Steve," a 40-year-old owner of a Seattle health products company who smokes roughly half a pack a day.

Fearing a negative reaction among his customers, Steve wouldn't allow his real name to be used in this article. "People look at me like I'm some kind of god," he explained. "They wouldn't understand."

For 10 years, Steve sucked down packs of Camel filters daily. He quit in 1988 and embarked on a purifying "journey." He shunned caffeine, meat, dairy products, sugar and chemically treated foods. He underwent colon, liver and gall bladder cleansings. Then his 15-year relationship fell apart, and last year, he took a puff of a friend's cigarette.

The habit returned, leveling off at a pack every two days. But he suffered night sweats, which he attributed to his body's new sensitivity to chemicals.

"When I switched to American Spirit," he said, "the night sweats stopped."

But why does Steve, a tall, lean, yoga-practicing, health "god," smoke in the first place? Because he's addicted, he says, and he loves the act of smoking.

"I know this sounds very odd, but there's a certain awareness of my lungs, as the smoke runs in and out of your lungs. You can feel the sensation of being alive," he says, pausing. "Or the illusion of being alive."

On the other end of the smoking spectrum is 26-year-old poet Sean Sarringar, who smokes five packs of American Spirits a week.

Does Sarringar care that they're "all-natural"? He shrugged, calling that merely "an extra plus" as he bought a pack on Capitol Hill.

His choice rested not on politics or health, but on taste and strength.

"You can get a bigger lungful of smoke," he said. "It's like food — it's tasty."

■ A cigarette maker in Blaine is going after the smokers of Generation X. See story on Page D2.

SEATTLE POST-INTELLIGENCER JAN 1 4 1995

Blaine tobacco company hopes to give Generation X a Buz

By Vanessa Ho P. D2
P-I Reporter

American Spirit isn't the only brand trying to smoke out a new niche in the cigarette market.

The makers of Buz cigarettes, the Exotic Tobacco Co. in Blaine, hope to capture the hearts and lungs of Generation X with the pitch that mainstream cigarettes are "what your dad smoked" and "frankly . . . pretty boring."

"You know that poem about the road less traveled?" Exotic president Randy Bishop asked. "This is for people on that road."

The cigarettes boast "new exotic smoke with industrial-strength flavoring," which refers to a vanilla flavoring in Buz's otherwise basic American-blended tobacco.

Bishop hopes Buz will "redefine the cigarette category" as microbrews did with beer, but he said it's too soon to predict success. Packaged in funky orange-and-purple boxes, Buz have been available locally in a few cafes, clubs and newsstands since November.

He said Buz cigarettes aren't another youth-oriented product (read: OK soda) dreamed up by older people at a large company.

Bishop is 26. His company employs a staff of four to five people, who average about 27 years of age.

Has Bishop ever been criticized for trying to make a buck off young people, especially with a tobacco product? He has, and this is his response:

"Profit is not a dirty word," he said. "This has nothing to do with smoking, but with civil rights and a right to choose."

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THE WALL STREET JOURNAL WEDNESDAY, JANUARY 25, 1995

Think Thin? Not at Kraft, Home of Velveeta

By YUMIKO ONO
Staff Reporter of THE WALL STREET JOURNAL

Kraft Foods' new management team has a message for anyone who thinks America is turning into a nation of health-conscious dieters: Baloney.

"Consumers talk more than they change," says Roger Deromedi, the executive vice president in charge of Kraft's flagship cheese division. "Americans don't change their habits that fast. It's like a glacier."

So while rivals scramble to sell salsa and frozen yogurt, the nation's No. 1 packaged food company isn't afraid to keep pushing products that go in the opposite direction. Kraft is betting billions on bologna, bacon, individually wrapped American cheese slices, and other fatty staples of Eisenhower-era lunchboxes.

It's even inventing some new waistline-busters for the 1990s. Last year it flooded supermarkets with Oscar Mayer Big and Juicy hot dogs (23 grams of fat each) and Velveeta Italiana, a creamy mix of white cheeses (six grams a hunk).

The stakes are higher than ever for Kraft. After years of mediocre sales, parent Philip Morris Cos. last month installed new top management in a sweeping shake-up. The new boss, James Kilts, quickly overhauled the company to merge its two far-flung and often unwieldy units, Kraft and General Foods.

Philip Morris acquired both companies in the 1980s to fortify its beleaguered tobacco business, but they haven't yet produced the results many expected. Annual sales growth in the 1990s has been 3% or less. When Philip Morris announces its 1994 results today, analysts expect them to show that Kraft's North American sales were roughly flat at $21.1 billion, with operating earnings up about 5%. (The results include a big food-service division that Kraft announced plans to sell last month.)

MARKETING

Bursting With Fat

Fat content for selected Kraft mainstays. The recommended daily fat intake is less than 65 grams based on a 2,000 calorie diet.

PRODUCT	FAT GRAMS
Oscar Mayer Big & Juicy hot dog	23 grams per hot dog
Entenmann's Mini Lemon Toasted Coconut Cake	17 grams per serving
Oscar Mayer bologna	8 grams per slice
Kraft Miracle Whip	7 grams per tablespoon
Velveeta Italiana	6 grams per slice

Mr. Kilts and his top lieutenants aren't yet talking publicly about their strategy. But privately, Kraft insiders say top managers have concluded that a recipe for growth requires smarter management of the same old-fashioned brands, not a big helping of new healthy products. They blame the company's sluggish results on strategic blunders in the late 1980s, when the company alienated shoppers by raising prices too aggressively on products like cheese and Kool-Aid. Officials say that the company has since revised its pricing strategy and that growth will soon accelerate.

To be sure, Kraft is keeping an eye on the low-fat market, with such offerings as

(Cont'd)

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Entenmann's fat-free chocolate-chip cookies, Velveeta Light and fat-free Miracle Whip. This month it even gathered the press at Manhattan's elegant Water Club restaurant to unveil a fat-free Oscar Mayer hot dog.

But Kraft has been shedding entire lines of other low-fat foods, including Birds Eye frozen vegetables and "surimi" imitation crab and lobster sticks, popular in salads and California-roll sushi.

"Americans talk a better health story than they practice," says a top Kraft executive. Years from now, "I bet you the ranch that the majority of consumers will still be eating products they love and know."

Right now much of the food industry seems to disagree with Kraft. **Campbell Soup Co.** and **Grand Metropolitan** PLC are embarking on billion-dollar acquisitions to get into the low-fat salsa market. And **Nabisco Holdings** Corp., which had a successful initial public offering last week, has made its Snackwell's line of low-fat treats a blockbuster hit.

But Kraft has plenty of evidence supporting its view of the American diet. Last year, federal researchers published the finding that fully a third of American adults are overweight, a substantial increase from the previous study.

The statistic may have surprised urban dwellers who buy couscous and balsamic vinegar at the local gourmet grocery. But it came as no surprise at the heartland supermarkets that are Kraft's big customers — stores like Festival Foods in Onalaska, Wis., which stocks gallon jars of mayonnaise for large families.

Chicago's NPD Group, which tracks consumer eating trends, surveyed lunch and dinner menus in American homes in 1994 and found the top three entrees were pizza, ham sandwiches and hot dogs, with macaroni and cheese coming in at No. 6. In

Please Turn to Page B4, Column 3

Kraft Bets People Aren't Ready To Give Up Eating Fatty Foods

Continued From Page B1

1984, the top items were ham sandwiches, steak and hot dogs.

"Whether you like it or not, these are the foods of the '90s," says NPD Vice President Harry Balzer.

Mr. Deromedi, Kraft's cheese chief, says the Mexican-food boom that has made salsa trendy is also selling plenty of Velveeta. Kraft even ran TV ads explaining how to create a Mexican dip by pouring salsa over Velveeta cubes and sticking it all in a microwave. Another commercial suggests microwaving Kraft American cheese slices in a tortilla. The ads helped cheese sales, which account for 15% of Kraft's North American business, jump 5% last year to $2.5 billion.

"Quesadillas are the grilled cheese sandwiches of the '90s," Mr. Deromedi says enthusiastically.

Kraft is also turning cheese into gold with frozen pizza, a nondietetic category with more than 10% annual growth in supermarkets. It bought a regional line called Tombstone in 1986 and quickly turned it into America's No. 1 brand.

Other Kraft mainstays aren't weathering the '90s as well. While Entenmann's fat-free goodies are prospering, consumers are holding back on the full-fat varieties. And Kraft says it's seeing weak sales in what it calls its "viscous" lines — mayonnaise and Miracle Whip. It introduced reduced-fat versions, but many consumers found them waxy and unpleasant.

"Some of their previous fat-free efforts have not met the taste requirements," says John McMillin, an analyst at Prudential Securities Inc.

Analysts think the new Kraft leaders may move quickly to sell off weak businesses. One candidate: the low-margin Kraft Food Ingredients division, which supplies flavorings.

Kraft officials say that the division is in the midst of a strategic review but that no decision has been reached.

Meanwhile, they are racing to integrate the old Kraft and General Foods lines, which have long been criticized for working together clumsily. On paper, the two had been combined for six years. In a new central headquarters building, with conference rooms proudly named after brands from both units, food executives confer in the "Jell-O Room," the "Oscar Mayer Room" and the "Kraft Room."

But the divisions had separate sales forces, and they were stepping on each other's toes. It was only last year that the company first promoted its Kraft cheeses and General Foods Oscar Mayer bolognas in the same display case.

Retailers "said, 'When are you guys going to put your act together?' " concedes Richard Lenny, Kraft's senior vice president of sales and customer services.

Today Betsy Holden, who manages frozen pizza brands like Tombstone and Jack's — formerly under Kraft — says it's easier to think up new promotions with former General Foods division products. She complains that an earlier joint promotion, offering Kool-Aid coupons with pizza purchases, required too many layers of approval.

Some customers are already optimistic. Thomas Haggai, chief executive officer of Chicago-based IGA Inc., a network representing 2,500 independent grocers nationwide, says he expects merging the Kraft and General Foods sales forces will boost IGA sales of their products 7% by June 1996. Exults Dr. Haggai, who is also a Baptist minister: "It was the absolute answer to a prayer."

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THE NEW YORK TIMES, THURSDAY, JANUARY 19, 1995

Oscar Mayer Joins the Rush With a Fat-Free Meat Line

By GLENN COLLINS

And now, the no-fat hot dog.

Yesterday the Oscar Mayer Foods Corporation, the $2.3 billion packaged-meat division of Kraft Foods, introduced its new fat-free line of frankfurters, bologna, chicken and turkey breast.

The product introduction, which will cost more than $10 million, offered new evidence for the mainstreaming of America's low-fat obsession, in what may be remembered as the "Week of the Couch Potato." It came only a day after Frito-Lay said it would spend $225 million to make low-fat products a third of its projected $6 billion salty-snack business by 1998.

To be distributed nationally in April, the Oscar Mayer Free line is the first big food product introduction since Oscar Mayer's parent, the Philip Morris Companies, merged its lagging Kraft and General Foods operations on Jan. 4. It is also the first major new product under the regime of James M. Kilts, the new executive vice president of worldwide food for Philip Morris.

As might be expected, then, the no-fat hot dog was introduced in style, at an expensive Manhattan restaurant, the Water Club. A Wienermobile, one of Oscar Mayer's six 23-foot-long, orange-and-buff hot-dog-shaped promotional vehicles, greeted visitors outside the restaurant.

Inside, the attendees were serenaded with a medley of tunes, including the "Oscar Mayer Wiener Song" ("Oh, I wish I were an Oscar Mayer wiener . . . ") and the "Oscar Mayer Bologna Song" ("My bologna has a first name, it's O-S-C-A-R . . . ").

It is hardly unusual for companies to hawk their wares by offering members of the news media a proverbial free lunch. But "this lunch really is free — fat free," Rick Searer, general manager of the Oscar Mayer division, said of the buffet that offered an array of the new hot dogs and packaged meats.

Oscar Mayer Foods

Oscar Mayer introduced a line of fat-free meat products yesterday.

But taste will be the crucial test, said Terry Bivens, an analyst with Argus Research. "Philip Morris is clearly trying to spruce up the food operation, a laggard in recent years," he said. "This could be a good product line for Oscar Mayer, but it all depends on whether consumers respond to the taste."

The new Oscar Mayer hot dog has zero grams of fat and 40 calories, in comparison with the 17 grams of fat and 190 calories of the full-fat Oscar Mayer frankfurter.

Ron Wauters, the Oscar Mayer vice president for research and development, declined to reveal the way its new fatless meat products were made, saying that the technology was "proprietary; the result of 15 years of fat-reduction research." The principal ingredients are lean turkey and beef, with a dash of preservatives.

A package of eight fat-free hot dogs will cost from $2.99 to $3.29, about the same price as Oscar Mayer's full-fat products.

WEDNESDAY, JANUARY 18, 1995 • USA TODAY

Hot dog! Fat-free

Oscar Mayer also cuts calories, sodium

By Dottie Enrico
USA TODAY

HEALTHY EATING: A multimillion-dollar ad campaign will help roll out Oscar Mayer's fat-free hot dogs.

Good news, hot dog lovers: Oscar Mayer is introducing the first fat-free meat wiener.

The company unveils Oscar Mayer Free, a line of fat-free hot dogs, bologna, turkey and chicken breast at a New York press conference today.

"For people who want to reduce fat, we've made it easy to eat healthier," says Rick Searer, an executive vice president.

Reduced-fat meats are big sellers with health-conscious consumers. According to Nielsen Marketing Research, Americans consumed 1.7 billion pounds of hot dogs, bologna and other processed luncheon meats last year.

The creation of a fat-free hot dog is being cheered by some nutrition experts who long have been concerned about hot dogs' fat and sodium content. Consumer activist Ralph Nader once dubbed them "America's deadliest missile." And last June, a University of Southern California study linked eating 12 to 20 hot dogs a month to an increased incidence of childhood leukemia.

"Though it's not our policy to make recommendations on specific products, a fat-free hot dog is certainly a step in the right direction," says Peter Greenwald of the National Cancer Institute.

The fat-free Oscar Mayer meats will be lower in calories than regular meats. A regular Oscar Mayer hot dog contains 17 grams of fat and 190 calories vs. 40 calories for the fat-free version. The fat-free version also contains 110 fewer milligrams of sodium. The retail price for a package of eight bun-size wieners will range from $2.99 to $3.29.

The fat-free products will be available in stores nationwide in April. They will be supported by a multimillion-dollar advertising effort from ad agency J. Walter Thompson and a cross-country tour by the Wienermobile, Oscar Mayer's popular promotional wagon.

But don't expect to grab a fat-free hotdog and a sudsy light beer the next time you're at the stadium. "Healthy" ballpark foods never have been big sellers, according to Aramark, a company that runs concession stands at Denver's Mile High and New York's Shea stadiums.

"People usually check their diets at the door when they come to the stadium," says Aramark's Hugh Gallagher. "I can't say we won't sell them, but people seem to like to eat the rich, fatty stuff when they come to a game."

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BRANDWEEK January 16, 1995

STRATEGY

Kraft Revs New Meats, New Synergies

By Betsy Spethmann

Sporting a healthier, streamlined corporate structure after merging Kraft and General Foods, Kraft Foods is following that lean, mean thinking with a new fat-free line from Oscar Mayer, a pioneering cross-portfolio sponsorship of USA Basketball's third "Dream Team" and possibly a similar step-up of its relationship with the National Football League.

KF this week will announce Oscar Mayer Free, fat-free hotdogs, bologna and turkey breasts rolling nationally by March, with some $10 million to $15 million in ad support. And the Dream Team deal, in particular, is thought to be the first time that the former KGF's ardently autonomous units, Oscar Mayer, Post and Kraft, have pooled resources on the platform of one property.

"The new company can express its unification through a single, integrated marketing strategy," said David Schreff, group vp, general manager of marketing for NBA Properties, which reps USA Basketball. "All those millions of Kraft packages with the Dream Team trademark on them will have a huge impact on consumers." Kraft becomes one of 12 full sponsors of the "Dream Team '96," climbing aboard media on an NBA ramp-up Dream Team tour next summer.

The realigned company is better positioned to put all eggs in such strategic baskets, maximizing its buying power, in lieu of such deals as Kraft USA's solitary sponsorship of the U.S. Olympic team in 1992. (Kraft Foods opted out of a '96 Games sponsorship) The company is in talks with NFL Properties, sports marketing sources said, likely amind of expanding that relationship beyond its meat and cheese products' presence in the league's annual FSI drops and toward more broader NFL rights and resources in retail promotional activities across other product categories.

A TV and print campaign from J. Walter Thompson, Chicago, will support the intro.

"Oscar Mayer is committing heavy support to the line because they want to bring new users and rebuild a category that's been down and out too long," said a consultant. "They'll be a giant step ahead of ConAgra, Hormel and Dial with this one."

Healthful eating has bitten into meat sales, with lunchmeat flat at $2.7 billion and hotdogs down 2% to $1.4 billion, per Information Resources. With the No. 1 hotdog brand, Oscar is well-placed to bring incremental business to the category.

Sporting Oscar's familiar yellow & red packaging, Free may replace two-year-old Healthy Favorites, which is slowly disappearing from supermarket shelves. Its lunchmeat sales dropped 25% to $62 million for the year ended Nov. 6; hot dogs are up 1.5% to a scant $7.4 million, per IRI. ■

Leaner, Meaner Kraft Foods Flexes Muscle

- Oscar Mayer Free, expected to get $10M to $15M in media starting with March launch, could establish pole position on bevy of flirtatious but unestablished "lite" cold-cut and hot-dog brands.
- Two-year sponsorship of USA Basketball will imprint multi-millions of SKUs with promotional, first-ever deal crossing the former KGF's entire brand portfolio, includingPost cereals, Oscar Mayer meats and Kraft food packaged goods.
- Kraft execs mull steppingup Oscar Mayer relationship with NFL's biannual FSI program and beyond, into other product categories, possibly buoyed by intra-cropo-rate synergy achieved by USAB deal.

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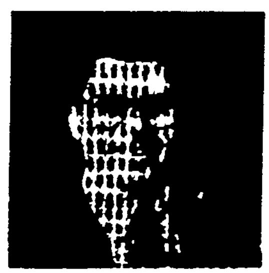
ADWEEK/January 16, 1995

Bowlin's Recipe for Change

New Products, Kraft Name Get Renewed Emphasis

By Jim Kirk

NORTHFIELD, ILL.—Philip Morris' newly consolidated and renamed Kraft Foods expects to beef up its new product machine and focus on rebuilding the Kraft name into a powerhouse with the potential to out-muscle and out-hustle its major competitors, said John Bowlin, newly named head of Kraft's operations.



"Agencies should see this as an opportunity," said new Kraft chief John Bowlin.

Bowlin, a former 19-year veteran of the now defunct General Foods operation and who has spent the last 18 months as president of Miller Brewing Co., said the newly streamlined Kraft operation will be in a better position to focus on new products, to arm its newly combined sales operation with better tools to compete with retailers and return much of its potential efficiency savings to marketing and advertising.

"We've had good growth, but we want better growth," Bowlin told *Adweek* last week. "Our marching orders are to grow. We want to leverage our scale."

Kraft expects to realize most of its efficiencies on the sales side where in the last three years, the company has basically gone from five separate sales units to two, and now to one.

The overlap handcuffed the combined unit in investment. While some of its competitors were beating Kraft General Foods in such areas as shelf-space management and trade promotions because they were more flexible, the former KGF operation was bogged down with separate Kraft and General Foods sales teams and billing structures that kept both from winning the trench warfare.

"In essence, it comes down to leveraging your power," said one trade source. "Clearly, Kraft and General Foods were two of the stronger sales teams out there. But put together, they're an immense force. If I were a competitor, I'd use the next couple of months fighting for every inch of shelf space I can get."

Kraft and General Foods agencies do expect changes as a result of the slimmed down operation, and most expect for some agencies to go by the wayside. Bowlin said that there are no agency changes in the works, and that agencies should see the new system as a chance to show off their true colors.

"There is no master plan as it relates to our agency roster," Bowlin said. "Does that mean one of our New York shops is in trouble because Kraft is based here? No. But agencies should see this as an opportunity."

However, Bowlin did suggest that agencies will be called upon to develop advertising that takes advantage of the Kraft name. He also didn't rule out the possibility of, for the first time, flagging former GF products, as well as Kraft products, as being a part of the Kraft family of brands.

"Kraft is the strongest, single brand name we have," Bowlin said. ■

BRANDWEEK January 23, 1995

KRAFT ON A ROLL

Leverages Brands to Create New Food Chains

EXTENSIONS **By Betsy Spethmann**—Kraft Foods has begun securing franchisees who'll bundle supermarket powerbrands into virtual Kraft Food Courts. Kraft is leveraging its presence in the $267 billion foodservice business to foray beyond the grocery aisle. *(Continued on page 6)*

(Continued from cover)

Kraft's move for new turf extends well into fast food territory. Both packaged goods foods and quick service restaurants want a greater share of what the trade calls "consumption occasions," which represent critical new channels to the consumer. Nestlé Foods and Sara Lee are also jumping into the fray for high-traffic real estate.

Branded Restaurant Group, an Oscar Mayer spinoff, has blueprinted brand name restaurants and kiosks for Kraft brands like Boboli pizza, DiGiorno pasta, Entenmann's bakery, Freshens frozen yogurt and Country Time lemonade. While Kraft expects its brand line ads—around $30 million annually for Oscar Mayer alone—and franchisee local promos to drive consumer traffic, direct mail to potential franchisees is planned for as early as spring. Einson-Freeman, Paramus, N.J., is the agency.

Restaurant-ready brands

Supermarket sales for Kraft brands available as restaurant concepts

- Oscar Mayer (hot dogs & lunchmeat): **$928.6 million**
- Entenmann's (baked goods): **$550 million**
- Country Time (drink mix): **$77.5 million**
- DiGiorno (refrig. pasta): **$40 million**
- Boboli (refrig. pizza crust): **$177,500**

For 52 weeks ended Nov. 6, 1994. Source: Information Resources.

Nestlé Foods is testing its own branded kiosks, carts and countertop units, selling Toll House cookies and Hills Bros. and Sark's coffee in two California locations, with three more due next month. Sara Lee Cos. is testing Sara Lee Bakery, Sara Lee Deli and Hillshire Farms Country Smokehouse kiosks, some in Kroger stores. With diverse powerbrand portfolios, Kraft and Nestlé are the most committed newcomers among packaged goods marketers looking to the $267 billion foodservice industry to supplement maxed-out grocery sales.

"Our biggest sustainable advantage is our brands," said Bill Finnegan, general manager of BRG. BRG's modular system will custom-bundle deli, pizza, salad,

(Cont'd)

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Kraft Ups Ante in Restaurants

(Cont'd)

yogurt and bakery and other units for established franchisees operating in the $84.3 billion non-commercial foodservice sector, such as airports, colleges, hospitals and business cafeterias. Two Smitty's supermarkets house Construction Co. units, but grocers aren't BRG's initial target.

In essence, BRG is subcontracting the concept with established foodservice operators, such as McDonald's franchisees. So, in addition to rivaling quick-service restaurants for consumer consumption occasions, BRG is forming strategic alliances with some of them as a way of "creating new growth vehicles for our existing foodservice customers," Finnegan said.

Franchising, rather than licensing the brand name, gives BRG greater control to maintain brand quality.

With 12 Hot Dog Construction Co. restaurants open, BRG contracted to add units in as many as 130 travel plazas around the country, with a dozen slated to open by May. Separately, Kraft's coffee division created a new brand, Burlap's Gourmet, for branded carts and coffeebars testing in four locations and doubling by spring. ■

CHICAGO TRIBUNE JAN 24 1995

Rivals watch, wonder: Will Jell-O jell as yogurt?

3/2 George Lazarus
ON MARKETING

Leveraging a brand name into a new category can be risky for any marketer.

So Jell-O's plunge into refrigerated yogurt no doubt is being anxiously monitored by the category's big guns, Dannon and Yoplait.

Already established as a gelatin, a pudding mix and a refrigerated pudding, total annual business pushing $500 million, the Jell-O brand is marching across the country after being launched into West Coast markets late last year.

For Kraft Foods, Jell-O represents its third yogurt brand, the others being Light n' Lively and Breyers.

These brands have regional distribution or are sold in pockets of the country, but one thing is clear from Information Resources Inc. data: The labels were down 6 percent for a recent 52-week period.

Light n' Lively and Breyers combined have 10 percent of the $1.6 billion-a-year refrigerated yogurt market, but that's a distant fourth behind Dannon (36 percent), General Mills' Yoplait (21 percent) and private label (15 percent), all showing gains in that recent IRI period.

Jell-O yogurt comes in family packs and kidpacks with an assortment of flavors. The kidpack is expected to be in national distribution by the end of the second quarter. Kansas City and other markets west of the Mississippi will shortly have the family pack.

It's doubtful that Jell-O, Breyers and Light n' Lively all will be available in the same market at some future date, because of regional preferences.

Jell-O, a name that dates to 1897, has plenty of clout with consumers, who were weaned on the brand from childhood. Research indicates that 9 of 10 Americans know Jell-O, and more than 3 of 5 households serve it.

The brand will get trial, but Kraft better be prepared to spend heavily behind it, as Dannon and Yoplait last year were close to $20 million and $14 million media advertisers, respectively.

Kraft spent virtually nothing on Breyers in media advertising in 1994, though it did back Light n' Lively with about $3.3 million, according to Competitive Media Reporting.

Young & Rubicam's Chicago and New York offices are working on Jell-O yogurt. Y&R also is agency for Breyers and Light n' Lively yogurts.

Speaking of leveraging, General Mills in mid-1992 wheeled out a Yoplait Trix yogurt, utilizing the name of its children's cereal, but this brand hasn't made an impact.

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UPf 01/17 1435 Maxwell House drops coffee prices

WHITE PLAINS, N.Y., Jan. 17 (UPI) -- Maxwell House Coffee Co. said Tuesday it will slashing the list prices of its ground coffees by 30 cents a pound-equivalent can, beginning Jan. 23.

The price cuts are in response to declining prices of green coffee on world markets, and the second price decrease in the past two months, said the division of Kraft Foods, the food business of Philip Morris Cos. Inc.

The cuts should be felt at the supermarket level in about 6 weeks, the current lag time between the time a company makes the announcement and it is passsed on to shoppers.

Maxwell House said it was also reducing the prices of selected brands and sizes of soluble coffees from between 2 cents an ounce and 4.5 cents an ounce.

The list price of Maxwell House regular ground coffee in the 13-ounce can is now $2.76, and Maxwell House instant coffee in the 8-ounce jar now has a list price of $3.92, down 36 cents an ounce and 4.5 cents an ounce respectively.

In December, Procter & Gamble announced similar price cuts. Folgers Coffee will decrease the list price of a 13-ounce can of its regular coffee by 30 cents, reducing the price to $2.76.

Coffee prices have been volatile beginning last June due to severe frosts, followed by a drought in Brazil, the world's largest coffee producer.

An estimate of 1995 worldwide coffee production by the United States Department of Agriculture showed coffee production rising by 4 percent as other countries increase crop estimates.

This report allayed worries that coffee would be in short supply this year, Folgers said.

The International Coffee Organization said Monday that world consumption of coffeee outstripped production last year for the second straight year. It said the average wholesale price was $1.3445 a pound, compared with 61.6 cents in 1993.

On July 13, the organization's daily indicator hit an eight-year high of $2.1626, but by mid-December, it had fallen to $1.3363.

(Other coverage available upon request.)

RTf 01/17 1839 Folgers to cut coffee price to $2.76/13oz Jan 23

NEW YORK, Jan 17 (Reuter) - Procter & Gamble <PG.N> said today it will decrease the list price of its Folgers brand coffee to $2.76 per 13-ounce can, effective Jan 23, to reflect the recent drop in raw coffee prices on the commodities markets.

The move cuts the price by 30 cents, or 9.8 percent, from $3.06, and follows an announcement today by Philip Morris Cos Inc <MO.N>, which lowered its retail price to $2.76 from $3.06 as well, also effective Jan 23.

Folgers's retail price had risen as high as $3.44 per 13-ounce can by July 13, 1994, following two frosts in Brazil, the world largest producer of mild, "arabica" coffee, which destroyed 25 to 30 percent of its upcoming crop.

But the recent estimate of the damage to Brazil's crop by the U.S. Department of Agriculture projected less damage than early estimates.

After rising as high as $2.44 per pound for March delivery, raw coffee prices have retreated significantly, trading at $1.703 per pound on Tuesday.

--New York Commodities (212) 859-1640

REUTER

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APf 01/13 1423 Freihofer Layoffs

ALBANY, N.Y. (AP) -- Charles Freihofer Baking Co. plans to cut about 100 jobs due to rising raw material and health care costs.

The bakers, truckers and others will be laid off between now and March, the company said.

Freihofer said the production of loaf and sheet cakes will be moved to a baking plant run by competitor Entenmann's in Bay Shore, N.Y. The plant is owned by Freihofer's parent company, Kraft Foods.

The truckers will be replaced when the company begins a contract with Penske Trucking of Reading, Pa.

In 1994, the company's sales volume and revenue increased, but cake sales were sluggish, according to president Peter E. Rollins.

THE WALL STREET JOURNAL MONDAY, JANUARY 16, 1995

Five Big Baking Firms Are Subpoenaed In U.S. Probe of Possible Bid Rigging

By RICHARD GIBSON
And VIVECA NOVAK
Staff Reporters of THE WALL STREET JOURNAL

Two federal grand juries, investigating the sale of bread and other baked goods in the Southern U.S., have subpoenaed business records from five of the nation's largest baking companies.

The inquiries into possible bid rigging and other anticompetitive activity—which haven't yet resulted in any charges — are among the latest probes by the government of major food-industry sectors. Besides baking, the dairy and soft-drink businesses have been periodic targets of investigations in recent years.

Precisely what the Justice Department hopes to find, and why it has convened separate grand juries in this effort, isn't clear.

A spokeswoman for the department would say only that it "is looking into the possibility of anticompetitive practices in the bread industry." Recent similar inquiries have focused on institutional bread sales to schools, hospitals and military facilities.

The latest investigations are being conducted by grand juries in Dallas and Macon, Ga. Two other grand juries—one in San Francisco, the other in Phoenix—were known to have been examining baked-goods sales in Western states in the past year or so. Officials at two companies subpoenaed in those probes say they subsequently received letters indicating no action would be forthcoming against them.

Companies whose records were subpoenaed by the Dallas grand jury include St. Louis-based Continental Baking Co., a unit of **Ralston-Ralston Purina Group**; Kansas City, Mo.-based **Interstate Bakeries Corp.**; St. Louis-based Campbell Taggart, a unit of **Anheuser-Busch** Cos.; Thomasville, Ga.-based **Flowers Industries Inc.** and Fort Worth, Texas-based **Mrs. Baird's Bakeries** Inc. Those subpoenas requested documents covering distribution areas, personnel and other matters involving baked goods sold primarily in Texas since January 1986.

Interstate and Flowers also acknowledge being subpoenaed by the Macon grand jury, which is believed looking into bread and snack-cake sales in Georgia and Alabama.

All the companies said they were cooperating with the government. "We know of no improper actions of any kind by either the company or any of our employees," an attorney for Campbell Taggart said. A spokeswoman for Flowers said the company "considers this activity to be normal antitrust compliance monitoring of the baking industry by the Justice Department."

Acknowledging receiving two subpoenas, Interstate's legal counsel, Ray Sandy Sutton, said such inquiries are common. "People are on a lot of fishing expeditions that don't result in any convictions," he said.

But the head of the Justice Department's antitrust criminal enforcement effort, Joseph Widmar, said, "We only open a grand jury when we have sufficient evidence to indicate that a criminal violation has occurred. We do not open grand juries as fishing expeditions." Moreover, he said, "We have never targeted any industries and said, 'OK, we want periodic looks.' "

Still, some areas of the food industry have undergone intensive examinations. In the late 1980s and early 1990s, prosecutors brought a raft of cases nationwide involving bid rigging and price fixing by milk producers selling to schools and other institutions, resulting in a number of convictions and guilty pleas.

In 1993, for instance, Borden Inc. paid nearly $9 million in fines to settle price-fixing allegations involving milk sold to schools, hospitals and a military base in Texas and to schools in Louisiana. Similarly, in the mid-1980s several cases were brought charging soft-drink companies with price fixing.

Mr. Widmar said the milk inquiries resulted from an investigation that began in response to leads received in Florida. "Sometimes we learn from one grand jury that activity is occurring in other states as well," he said. "When we found it was widespread, most of our field offices did check." He wouldn't say whether that was the situation currently with the bread industry. States also may launch simultaneous investigations, along with the U.S. probe, as was the case with milk.

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INVESTORS BUSINESS DAILY WEDNESDAY JANUARY 18, 1995

Hershey, Frustrated In Europe, Now Seeking Acquisitions Elsewhere

By Reuters

A3

Hershey Foods Corp., frustrated in its attempts to build a major European presence, is now looking elsewhere for sweeter foreign markets.

Foreign Investment

Chairman Kenneth Wolfe said in a recent interview the chocolate-and-pasta company's strategy for the future will focus on streamlining its newly merged Canadian, U.S. and Mexican candy operations and seeking out new markets in Russia, the Pacific Rim and Latin America.

Relatively less emphasis will be placed on Europe, and existing subsidiaries there are being closely reviewed for their continued suitability, he said.

"Historically we have had a primary focus on Europe in terms of international activities," Wolfe said.

"We have changed the focus in that regard somewhat, and while we're not casting our eyes away from Europe, we're certainly expanding our scope and looking other places: Russia, China, Latin America or other parts of Asia, where the chocolate industry is not nearly so well developed but there might be perhaps greater growth," he said.

Hershey's international sales —mostly in Europe and Canada — were $408 million in 1993, the most recent full-year figures available. Hershey's total sales were $3.49 billion in the year.

Earnings Improvement

Wolfe said Hershey had struggled with tighter margins and softer markets in its centennial year of 1994, after seven or eight years of consumption and market trends that fueled strong earnings growth in the candy industry.

Rising cocoa and durum wheat prices were especially significant last year, he said.

But by restraining costs and launching new products, results from continuing operations in 1994 should show an improvement over the year before, and 1995 will be even better, he said.

"I think '95 will be better than '94," Wolfe said. Analysts estimate Hershey will report earnings, before one-time items, of around $3.03 a share for 1994 and $3.36 for 1995.

That compares with $152.7 million, or $2.86 a share, before one-time charges and gains in 1993.

Final results have yet to be tabulated for 1994, but Wolfe said, "We're still turning in a year in '94 that's up over '93."

The 1994 estimate is not counting a restructuring charge of $120 million to $130 million. Hershey said in November it would combine its chocolate and confectionary operations in North America into a single unit and cut about 400 jobs.

The aim, Wolfe said, is to take advantage of marketing and manufacuring efficiencies within North America.

Hershey said in announcing the charge that its strategy would emphasize North America and selected international markets.

Wolfe said Hershey had tried to establish a major presence in Europe—a market teeming with chocolate lovers.

The company bought firms including Germany's Gubor Schokoladen and the confectionary operations of the Dutch firm Overspecht B.V. and of Heinz Italia SpA in Italy.

Mature Market

But Wolfe said the market in general was mature, with intense retail competition and prices for many existing firms that Hershey was unwilling to pay. In a notable battle, Hershey was outbid in 1992 for Norway's Freia Marabou by Philip Morris Cos.

"For some of those reasons, we thought we might be best

(Cont'd)

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served by going elsewhere," Wolfe said.

He dismissed recent rumors Hershey was interested in buying Germany's Alfred Ritter Schokoladfabrik, saying there had been no discussions between the two firms.

Asked about Hershey's existing subsidiaries in Europe. Wolfe said, "We're taking a hard look at that . . . I think some of it will survive and some may not."

New Products

A bright spot in 1994 has been the successful introduction of the Nutrageous candy bar, which Wolfe said would approach nearly $100 million in sales in its first year, compared with roughly $450 million for Hershey's top-selling Reese's Peanut Butter Cups.

He said Hershey had continued to gain U.S. market share over its main rival, M&M Mars Inc., makers of M&Ms and Mars candy bars.

He said the market share of Hershey's Reese's brand peanut butter candies had dropped somewhat after a better-than-expected start in 1993 but it still seemed to be a successful niche product.

He also said a new children's cereal, Reese's Peanut Butter Puffs, a venture with General Mills Inc., is now being rolled out nationally after unanticipated delays.

THE WALL STREET JOURNAL FRIDAY, JANUARY 27, 1995

MARKETING & MEDIA

P&G Says Fiscal 2nd-Quarter Net Rose By 15%, Reports Impact of Kobe Quake

By PAULETTE THOMAS
Staff Reporter of THE WALL STREET JOURNAL

Procter & Gamble Co. reported a 15% earnings gain for its fiscal second quarter, and said it will take a $50 million after-tax charge in the third quarter to cover expenses from this month's Japanese earthquake.

The consumer-products giant based in Cincinnati is among the first U.S. companies to set an amount on damages suffered in the devastating quake. Two P&G facilities were damaged, including its high-tech Japanese headquarters and research center in Kobe, the earthquake's center.

P&G said net income was $750 million, or $1.06 a share, in the fiscal second quarter ended Dec. 31, compared with $653 million, or 92 cents a share, a year earlier. Revenue increased 8.7% to $8.46 billion from $7.78 billion the year before.

P&G said its product volume jumped 9% in the quarter, with acquisitions accounting for about 3%. Favorable exchange rates added about 2% to the sales and earnings growth for the period.

In addition to P&G's Kobe headquarters, a paper-product manufacturing plant located in nearby Akashi suffered damage, but both facilities remain standing. The paper plant could resume operations in two weeks, P&G's chairman and chief executive officer, Edwin Artzt, told analysts in a conference call.

The headquarters – which lost lab equipment, furniture and other fixtures – may reopen again in a few months, he said. Until then, P&G will operate from temporary headquarters in Osaka. Four other Japanese manufacturing facilities weren't harmed.

The one-time $50 million charge to cover earthquake expenses amounts to seven cents a share, Mr. Artzt said, 60% of which will go toward the cleanup costs of the damaged facilities. The remainder of the charge will go to employee assistance and other one-time expenses. Although none of the company's 6,000 employees at any of its Japanese work sites was seriously injured, many lost homes and family members. Japan represents about $1.7 billion, or about 5.5%, in P&G sales worldwide.

Mr. Artzt said the company would attempt to recoup as much of the charge as possible in other areas of business. "This comes at a time when we have some opportunities to offset part of it," he said, "but I'm not going to say that we can do it all."

The maker of Crest and Tide is experiencing the financial impact of its continuing cost-cutting program, which is slashing 13,000 jobs, sooner than it had anticipated, Mr. Artzt said. For the six months ended Dec. 31, net earnings were $1.54 billion, or $2.04 a share fully diluted, compared with $1.32 billion, or $1.74 a share fully diluted, in the year-earlier period. Revenue for the six months increased 8.2%, to $16.62 billion, from $15.35 billion

Among the weaker spots in the earnings report is the company's diaper business overseas, where it sells the Pampers and Luvs lines. "It's not quite as healthy as the rest of the company," Mr. Artzt said. While volume improved in other business areas, the diaper business was flat, he said.

Otherwise, volume growth in its international business rose 15%. "Any way you cut it, it's one of the stronger gains in sales we have seen from this company in several quarters," said Deepak Raj, analyst with Merrill Lynch.

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THE NEW YORK TIMES, WEDNESDAY, JANUARY 25, 1995

Market Place | Laurence Zuckerman

Kellogg investors are worried about profit-eroding discounts in the battles of the breakfast foods.

SINCE the Kellogg Company reported fourth-quarter, earnings on Friday, investors and analysts have been spooked by the "bogos."

No relation to the bogyman, bogo is food-industry shorthand for "buy one, get one free." And investors and analysts are afraid that Kellogg might be forced to adopt such discounting measures to defend its market share, weakening its profit margins. The company's announcement of its earnings signaled to some that their fears might be realized.

Last spring, Kellogg sharply cut back on bogos and other discounts on some of its biggest-selling cereals to reduce expenses and increase profits.

The strategy worked. Kellogg's net earnings rose 4 percent, to $705.2 million, the 42d annual rise in the last 43 years. But the volume of sales in the company's core domestic cereal business declined, continuing a slide in market share that has seen Kellogg's brands go from more than 40 percent of the $8 billion market in the late 1980's to 35.5 percent today.

The company has assured investors that it will not reverse course and reintroduce promotions.

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Nonetheless, a single, seemingly innocuous, statement on Friday from Arnold G. Langbo, the company's chairman and chief executive, was enough to send many shareholders rushing for the exits.

"We are extremely sensitive toward further volume decline," Mr. Langbo said in a statement issued by the company along with its results.

After a conference call with Kellogg management the same day, Wall Street analysts began lowering their ratings on the stock. That day, Kellogg shares fell $2.75, to $54.25, on the New York Stock Exchange.

Monday's announcement that Quaker Oats will begin offering Kellogg further competition by selling its cereals in plastic bags at discounted prices furthered the slide. Kellogg shares dropped an additional 87.5 cents Monday, before closing unchanged yesterday at $53.50.

"Some people see this as the next Marlboro Friday," said John M. McMillin an analyst at Prudential Securities.

He was referring to the day in April 1993, when the Philip Morris Companies announced that it would cut prices on its Marlboro cigarettes to win back market share from lower-priced competitors. The decision resulted in a sharp decline in Philip Morris's earnings and reduced the premium Wall Street attached to companies that sell well-known brands.

Kellogg's market share is as low as it has been in 20 years, noted Timothy S. Ramey, an analyst with C. J. Lawrence/Deutsche-Bank Securities Corporation. "If this isn't the line-in-the-sand level, what is?" he said.

Mr. Ramey said he could easily see Kellogg spending $200 million to $300 million defending its brands, a sum that would "punch a hole" in its 1995 earnings.

Even if the company does not take such a drastic step, Mr. Ramey does not see much earnings growth in 1995. Last Friday, he lowered his rating on the stock to a "sell" from a "hold" and cut his 1995 earnings estimate to $3.15 a share from $3.45.

But other analysts and investors believe that the company will hold its ground. Though the stock is trading well below its 52-week high of $60.75, it still has a way to go before it touches its low of $47.375, where it fell in the spring.

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Steve Galbraith, an analyst at Sanford C. Bernstein & Company, is relatively bullish, predicting earnings of $3.50 a share next year. He pays less attention to the domestic cereal business, which he believes will stabilize, and looks to the domestic snack business and Kellogg's promising international growth, which together account for 60 percent of the company's earnings.

"Kellogg is probably better positioned to take advantage of international growth than any other food company out there," he said.

But he agrees with the bears that Kellogg is in desperate need of a winning new cereal product. "This is one of those show-me stocks," he added. "They have to show that their strategy is working."

Monday, January 23, 1995 Investor's Business Daily

Kellogg Profit Up 6% In 4th Qtr; Growth Continues To Decelerate

BATTLE CREEK, Mich., Jan. 20 (Bloomberg) — Kellogg Co. on Friday reported its fourth-straight quarter of decelerating sales and earnings growth.

The cereal giant said fourth-quarter earnings came to $153.3 million, or 70 cents a share, up 6% from $149.5 million, or 66 cents, in a strong year-earlier period. Revenue inched up 1% to $1.59 billion from $1.57 billion.

Earnings matched Wall Street expectations of 70 cents a share, based on the mean estimate of 16 analysts surveyed by Zacks Investment Research.

The company's stock nonetheless fell 2 ¾ to 54 ¼ on volume of 1.29 million shares — nearly six times normal.

In the year-ago quarter, Kellog registered a gain of $22.2 million, or 10 cents a share, on the sale of Argentine assets, offset by a charge of $22.6 million, also 10 cents a share, to write down assets.

"We continue to closely monitor the U.S. cereal business," said Arnold Langbo, chairman and chief executive. "Even though our U.S. cereal volume has been negatively impacted, we believe our strategy of reducing inefficient price promotion activities is the best way to sustain our growth in both volume and profitability over the long term."

Last October, Kellogg followed rival General Mills Inc.'s move to cut promotional spending.

Kellogg, whose cereal brands include Froot Loops and Rice Krispies, said net income for the year after one-time items rose to $705.4 million, or $3.15 a share, up 3.6% from $680.7 million, or $2.94, in 1993.

For 1994, the company posted a gain of $13.3 million, or 6 cents a share, for the sale of its Mrs. Smith's Frozen Foods business, and a charge of $13.1 million, also 6 cents a share, for funding of Kellogg's Corporate Citizenship Fund.

The year before, Kellogg had a gain of $46.3 million, or 20 cents a share, from the sale of some businesses and a charge of $41.1 million, or 18 cents, for a write-down of certain North American assets.

Revenue in 1994 was $6.56 billion, up 4.2% from the previous year's $6.29 billion.

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THE WALL STREET JOURNAL MONDAY, JANUARY 23, 1995

Quaker Oats Co. Will Begin Marketing Value-Priced Cereals Under Its Brand

By RICHARD GIBSON
Staff Reporter of THE WALL STREET JOURNAL

Quaker Oats Co., in a daring break with industry rivals, is beginning to market value-priced ready-to-eat breakfast cereals under its Quaker brand.

The products, which will be packaged in polyurethane bags without boxes, are designed to compete for economy-minded consumers who are increasingly reaching for store-brand cereals in supermarkets. Whereas some national brands cost upward of $5 a box, Quaker said its 16-ounce bags will be priced at under $2, while 35-ounce bags will cost less than $4.

Despite private-label's growing share of the $9 billion domestic cereal market—nearly 10% by volume – until now the national-brand cereal makers have resisted making lower-priced versions under their own name. **Ralcorp Holdings** Inc., the nation's largest maker of private-label cereals, also makes the Ralston line of cereals but prices them comparable with other national brands.

Quaker, which doesn't plan to advertise the bagged cereals, is counting on its name to attract shoppers.

"We believe that having the identification of a well-known national manufacturer will spur trial," Quaker spokesman Ronald G. Bottrell said. "Consumers are looking for products they can depend on. Products from national manufacturers are perceived to be higher in quality, so having these positioned under the Quaker brand will be a definite advantage."

With just 7.3% of the ready-to-eat cereal market Quaker apparently calculates that the potential sales gain more than offsets the risk of eroding sales of its name-brand boxed line. The bagged line includes knockoffs of several other popular cereals, but not of Quaker's best-selling Cap'n Crunch or other products.

Mr. Bottrell said that about one-third of the supermarkets that stock the company's branded cereals don't carry bagged cereals—a void Quaker hopes to fill.

But Quaker will likely run into resistance. "We will aggressively defend our position in all markets," said John W. Lettmann, president of Minneapolis-based **Malt-O-Meal Co.**, which has about 75% of the U.S. bagged cereal niche and has nearly doubled its overall market share, to 2.5%, in the past two years. In some supermarket chains, Malt-O-Meal's bags substitute for a house brand or private-label product.

Does that mean a potential price war?

"Consumers will probably have a pretty good value in that section if business history is any indication," Mr. Lettmann replied.

Malt-O-Meal, which introduced bagged cereals in the 1970s, now sells about a dozen varieties, many of them knockoffs of the national brands. Because of their lower prices, the cereals have little advertising or other marketing support.

Quaker's move is likely to further complicate an industry torn by divisive pricing and promotional strategies. While the two leading cereal makers, **Kellogg** Co. and **General Mills** Inc., have dramatically reduced coupons and other promotional spending, third-ranked Post, a unit of Philip Morris Cos., has gained market share by offering discounts many consumers have come to expect.

Quaker plans to produce six varieties of bagged cereals featuring its Quaker man logo on the package. The company has been in the bagged-cereal business with its Popeye brand, acquired several years ago, but that line has only about a 15% share of the bagged-cereals market.

Now, under what the company calls a "restaging" of the Popeye line, the Quaker name will replace that of the cartoon sailor on four pre-sweetened versions, as well as on two new cereals for kids, Frosted Flakes and Marshmallow Safari. Puffed rice and puffed wheat, as well as a Cheerios knockoff called Oat'mmms, will continue to be sold under the Popeye label.

In another break with tradition, Quaker recently began making private-label oatmeal for supermarket chains, in a category it clearly dominates.

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THE GLOBE AND MAIL
TORONTO, CANADA JAN 19 1995

Independent grocers get Very Own label

BY MARINA STRAUSS p. 57
Marketing Reporter

THE private-label battle is heating up with a new off-brand, Our Very Own, joining the ranks of President's Choice and Master Choice on grocery shelves.

In a novel twist, **Lanzarotta Wholesale Grocers Ltd.**, the country's largest independent wholesaler, is taking on such giants as **Loblaw Cos. Ltd.** of Toronto in launching the Our Very Own private-label line for independent grocers.

Our Very Own goods, also carried by some Shoppers Drug Mart Ltd. outlets, were introduced recently in Ontario, with plans to expand across Canada later this year under licencing deals, said Philip Lanzarotta, the wholesaler's vice-president of sales and marketing.

The new player in the private-label field serves up both another customer and rival for Toronto-based Cott Corp., which produces most off-brand soft drinks for Canadian retailers (including Our Very Own pop) as well as private-label snacks, beer and pet food.

What is more, Cott hired former President's Choice guru and Loblaw executive Dave Nichol to cook up a whole new range of private-label products.

Still, Cott vice-chairman Fraser Latta said he continues to view Lanzarotta as a "customer," not a competitor.

Added Tim Carter, a spokesman for Oshawa Group Ltd. of Toronto, whose chains include IGA and Food City: "Our Very Own may be a reflection of the growing incidence of premium private-label products that have grown across the country. This is their [independent grocers'] response to a particular marketing phenomenon."

In the past few years, chain stores such as Oshawa Group and Toronto-based Great Atlantic & Pacific Tea Co. Ltd. have scrambled to roll out their own premium private labels to compete with President's Choice. Oshawa Group stores carry Our Compliments goods, while A&P sells Master Choice.

MARKETING & ADVERTISING

Our Very Own goods were developed for independent grocers to challenge supermarkets' private-label lines.

Our Very Own premium products include cookies, peanut butter, coffee and cocktail juices and are priced at about 20 to 30 per cent below national brand counterparts, Mr. Lanzarotta said.

Lanzarotta, which supplies 300 retailers in Ontario such as Bruno's, Pusateri's and Kitchen Table, is planning to launch barbecue-related products, such as sauces, for the spring and more goods for next fall, he said.

The wholesaler is tapping into some of the same suppliers as those used by rival private-label producers, including Loblaw's President's Choice line, he said.

For example, Kraft General Foods brews up Our Very Own coffee, a subsidiary of Beatrice Foods Inc. makes the cookies and Select Food Products Ltd. produces the salsa sauce.

A 369-gram tin of the Our Very Own Arabica bean ground coffee sells for $4.99, compared with about $5.99 for similar name brands, Mr. Lanzarotta said. A 24-can case of soft drinks sells for $4.99 compared with about $6.99 for name brands. And a 500-gram jar of peanut butter costs $1.99, almost $1 less than regular brands, he said.

Lanzarotta, based in Concord, Ont., dreamed up the Our Very Own idea after watching small grocers lose sales to chain stores as consumers raced to buy the cheaper private labels. The wholesaler has so far rung up about $2-million in sales of its Our Very Own goods, still a far cry from the roughly $1.5-billion of President's Choice sales in Canada.

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ADVERTISING AGE INTERNATIONAL,
(A SUPPLEMENT TO ADVERTISING AGE)
JANUARY 16, 1995

No global private label quake—yet

By Gary Levin

Private label, which has shaken the packaged goods industry in North America and Europe, hasn't caused major earthquakes worldwide—yet.

While no-name or "own-brand" products have claimed 31% of U.K. grocery sales, according to Datamonitor, and 21% in Canada, according to A.C. Nielsen, they're comparatively weaker in less developed markets such as Argentina and India, where the lack or

Cover Story

recent introduction of huge supermarket chains limit distribution clout. And private labels have barely made a dent in Hong Kong, where high disposable income has fostered high-price brand loyalty.

But private label's influence is beginning to be felt in South Africa, Japan and other countries, where established brands are rushing to defend their territory against lookalikes, and in some areas, they're expected ultimately to command as much as half of total grocery sales.

Because of the high stakes involved, the soft drink business has proved perhaps the fiercest battleground for private label marketers.

Coca-Cola Co., for example, has resorted to tactical ad campaigns in the U.K. and South Africa against encroachers, which normally spend little on advertising themselves to maintain their low-price appeal.

Leery of losing its grip on 75% of South African soft-drink sales, the company ran an aggressive TV, print and outdoor campaign from McCann-Erickson, Johannesburg, with some ads headlined, "Just because it says cola doesn't mean it's Coke."

Coca-Cola is spending $4 million on a similar TV campaign in the U.K., created by Bartle Bogle Hegarty, London, and aimed squarely at chains like J. Sainsbury, whose house brands hold 12.2% of the cola market and 60% of all cola sales in their stores. Coca-Cola's U.K. share, in fact, has fallen below half of the $1 billion U.K. cola market for the first time, according to market research company AGB.

Coke's share dropped to 42.2% in November (the most recent figures available), from 54.6% the month before, due to the onslaught of Cott-produced supermarket cola brands.

Sainsbury, in fact, now allocates 48% of its total shelf space to private-label products, and rival Tesco an even higher 51%, according to Datamonitor, a U.K. researcher.

In Japan, supermarket chain Daiei Inc. has only recently launched its assault on Coke's 90% stranglehold on the cola market. The chain last June introduced the bluntly named Savings cola in 865 outlets, adorned with red and white packaging, that sells for about one-third the cost of Coke, at 39¢ versus $1.07 a can.

Coke hasn't resorted to a combatative ad campaign here and seemingly refuses to acknowledge the threat. Miyabi Katanaga, a spokeswoman for Coca-Cola Japan, scoffs that "there's nothing new" about products like Daiei's Savings cola, and claims supermarket chains represent just 3% of the company's business.

Coca-Cola is striking back against private label incursion in the U.K. with this "Stepford Wives" style spot from Bartle Bogle Hegarty.

"Clearly, we are accustomed to competition and we have successfully competed against a wide range of different products—including private labels—for over three decades," she said.

Other companies have responded to copycat packaging, especially in markets where weak trademark laws give the company little local recourse.

Last March, Kraft General Foods' Argentine unit sued French marketer Bongrain for marketing Pennsylvania brand cream cheese in a package nearly identical to that of Kraft's Philadelphia brand. Bongrain later relented, changing the brand name to Santa Rosa but leaving the copycat packaging intact.

Die-hard loyalists aren't fooled.

"My mother has tried to get me to drink American Cola and Classic Cola, but they don't match up," said Garth Foote, 17, a Johannesburg student. "Only Coke tastes like Coke; the others are similar, but just not the same."

"Usually I buy the popular brands," said Wanda Lee, a 24-year-old Hong Kong secretary. Tempted by private-label products, Ms. Lee still won't bite. "Even if the price was half, I'm not sure I'd buy it."

Such brand loyalty is the major reason why private label hasn't taken off in Asia. Campbell Soup Asia, for example, claims a 60%-plus share of the Hong Kong soup market and believes the presence of fewer brands in each category has made multinationals more prominent, a spokesman in Hong Kong said.

In other markets cultural customs have stopped the incursion of private label. Well-to-do Indians, for example, send servants to purchase most household goods, and they tend to patronize small corner groceries which do not have the clout to create their own house brands.

Moreover, the economy is a telling factor in private label dominance. Historically, the rise and fall of private-label products have reflected booms and busts in the economy; cash-strapped consumers are often willing to trade down to cheaper products, but many reverse themselves and buy pricier goods as better times return.

Therefore, private label sales are highest in countries either still in recession or climbing out of it, like the U.K.

"Consumers are undoubtedly value-driven at the moment," said Tim Potter, a food analyst for Smith New Court, a London brokerage firm.

"While the country's economy may be coming out of the recession, consumers still have not got rid of their [buying] habits."

That might be changing in developed markets, however, as retailers view them as part of a long-term strategy to wield more power against brand name manufacturers. □

Mir Maqbool Alam Khan, Elena Bowes, Laurie Freeman, Mike Galetto, Andrew Geddes and Cathy van Zyl contributed to this story.

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CHICAGO TRIBUNE | JAN 27 1995

Miller pours more of itself into China market

A flat, no-growth U.S. market has brewers over a barrel, so industry leaders like Miller Brewing Co. are venturing globally to build volume.

Consider Miller's disclosure Thursday that it has acquired a minority equity interest in four Beijing breweries, with the option of becoming a majority owner.

For the last two years, Miller has licensed Beijing-based Five Star Beer Group, owner of three of the breweries, to produce its Miller High Life.

With its latest move, Miller has advanced its position in China, where beer sales are going out of sight, to 108 million barrels in 1994, making it the No. 2 beer market worldwide. China is crawling with breweries, 800 by one count.

The U.S. market is level at 190 million barrels, with a population one-fourth that of China's.

A Miller spokesman said the firm hasn't decided which brand will be marketed in China under its new arrangement with Asian Strategic Investment Management Corp. (ASIMCO).

Miller already is prominent in the Far East, including being top importer in Taiwan with Miller Genuine Draft and Miller Special Dark, a brand not sold elsewhere.

Miller's move into China may force rival Anheuser-Busch to bolster its presence there. Two years ago, Anheuser-Busch acquired a 5 percent stake in Tsingtao, China's largest brewery.

George Lazarus
3/2 ON MARKETING

latest bit of merger gossip on ad row involves discussions between newly named True North Communications, parent of Foote, Cone & Belding Advertising and other firms, and W.B. Doner & Co., the near-$500 million Southfield, Mich.-Baltimore ad agency. Alan Kalter, president-chief operating officer of Doner, says he's heard the rumor but there's nothing to any merger talk. True North has been shopping to establish another ad agency network. Bruce Mason, chairman-CEO of True North, said there have been ongoing "casual discussions" with Doner for two years, but "nothing's happened."

THE NEW YORK TIMES, FRIDAY, JANUARY 27, 1995

COMPANY NEWS

MILLER BREWING CO., Milwaukee, a subsidiary of Philip Morris Cos., completed an agreement with Asimco, Beijing, an investment company, to acquire a minority equity interest in four breweries in Beijing. Terms were not disclosed.

CHICAGO SUN-TIMES JAN 27 1995

WORLD Business In Brief

MILLER LOOKS OVERSEAS

CHICAGO—Miller Brewing Co., which has taken a minority stake in four Chinese breweries, is looking to tap other Asian and Latin American markets, company executives said Thursday. "The key priority areas that we are looking to invest [in] are Asia and Latin America and then other markets around the world that opportunistically could build profit long-term for us," Dick Strop, senior vice president at Miller, said.

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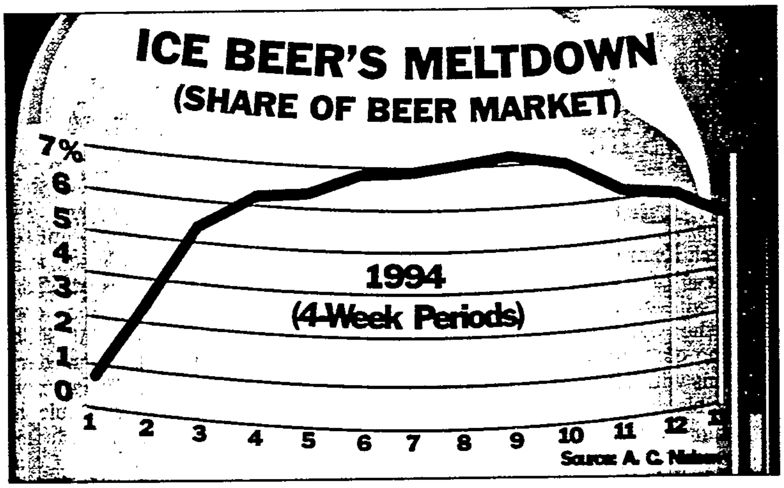
ADWEEK/January 16, 1995



Ice Beer Thaws

Brewers Look to Make Changes

By Jim Kirk

CHICAGO—Declining sales among ice beers, despite the $140 million spent on them in ad support last year, is putting pressure on breweries and their agencies to reverse the slide.

In some cases, new agencies are getting a look from clients. Anheuser-Busch is said to have asked Sausalito, Calif.-based Butler, Shine & Stern to work on a new campaign for its Bud Ice brand, which is currently at DDB Needham Chicago.

However, the Butler, Shine campaign may have been put on hold while A-B tries a new campaign from Needham.

Similarly, Chicago's Leap Partnership is said to be working on a Miller Lite Ice project; a brand currently at Bates, New York [*Adweek*, Dec. 19].

According to Nielsen research, obtained independently by *Adweek* from beer industry sources, ice beers' share of the beer market peaked in August and September and has been declining since. Most recent figures show it at roughly 5.3% of the market, down from a high of almost 6.5% of the market late last summer.

More scary for beer marketers is that since the summer, a number of other ice beer brands have entered the fray, meaning the whole category is declining while the number of ice beers continues to creep upwards.

For the nation's two biggest brewers, the individual brand news is not much better. Miller Brewing Co.'s Icehouse and Lite Ice brands have declined in recent months, while Bud Ice has fallen to under a 1% share for the first time since the brand went national.

The only brand seemingly holding its own right now is Miller's Molson Ice.

Still, beer industry consultants say there still is something to the ice beer category, and that almost 9.5 million barrels is nothing to sneeze at.

"Dry beers were pretty transparent, but there seems to be something there with ice beers," said one beer agency source.

Consumers are displaying increasing fickleness toward the beer market, according to some beer insiders. "There now seems to be a 'category of the year' in the beer business," said one beer industry source. "There seems to be a constant percentage of people that always demand new products now. The beer industry has become a category of choices."

The portion of beer buyers continually demanding new brand options is put at roughly 10% now by some industry insiders, making long-term brand strategies more difficult to set than in the past.

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DENVER-ROCKY MOUNTAIN NEWS JAN 17 1995

Coors' sales volume sets record in 1994

Golden brewer credits its premium, seasonal beers for company's 2.7% increase over 1993

By Lynn Bronikowski
Rocky Mountain News Staff Writer

Coors Brewing Co. celebrated record sales volume in 1994, becoming the only major U.S. brewer to set volume records 10 years in a row.

The Golden-based brewer announced Monday that for the fiscal year ended Dec. 25, sales volume of malt beverages was 20.363 million barrels, up 2.7% over the 19.828 million barrels sold in 1993.

"Wow," said Eric Shepard, editor of *Beer Marketer's Insights*, an industry trade publication. "That's a good number, a good increase considering the overall industry was up much less than that."

Peter Coors, Coors vice chairman and chief executive officer, said in a statement, "We are pleased to have achieved meaningful sales growth in another tough year for the beer industry."

He attributed the growth to strong demand for Coors premium products, including Coors Light, Zima and Coors Artic Ice.

Killian's Irish Red and the brewery's seasonal beers also spurred record sales.

Stock in Coors' parent, the Adolph Coors Co., closed Monday at $16.25, up 63¢ on the Nasdaq exchange.

Shepard said the report was particularly bright because volume grew with premium brands rather than having to rely on lower-priced brands for growth.

Coors Light sales grew, too, in a year when industry watchers were projecting Coors Light sales would be down, said Shepard.

In part, Coors is banking on the Jan. 2 national rollout of Artic Ice and Artic Ice Light to continue its record in 1995.

The reported sales volumes at the nation's No. 3 brewer represent sales to wholesalers. Sales from wholesalers to retailers increased about 1% over 1993.

The nation's No. 1 brewer, Anheuser-Busch, and No. 2 brewer, Miller Brewing Co., each had at least one year in the last decade when sales volume had fallen.

For the fourth quarter, sales volume totaled a record 4.406 million barrels, up 4.8% from the same quarter in 1993.

(Other coverage available upon request.)

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10:22am EST 30-Jan-95 Bernstein (GARY BLACK 212-756-4197) MO RN
MO: STOMACH THE RISK, VALUATIONS DISCOUNTING DOMEST TOBACCO BANKRUPTCY (PT 1/2)

Stock	Rating	Price	YTD Perf%	Earnings 1994E	1995E	1996E	P/E 95E	96E	95E EV/ EBITA	95-99E CGR%	Yld
MO	O	$61	5	5.45A	6.40	7.30	9.5x	8.3x	6.0x	14%	5.4%
Cash EPS				6.10	7.05	7.95	8.6	7.6		13%	
RN	O	$6	9	.45	.63	.77	9.5x	7.8x	5.7x	17%	5.0%
Cash EPS				.79	.93	1.07	6.5	5.7		13%	
SPX		470	2	31.25	33.00	35.00	14.3	13.4	--	7%	2.8%

HIGHLIGHTS

1. Philip Morris' risk/return profile remains deeply asymmetrical, with downside of around $55, and an upside near $70. At current prices, we estimate the market is paying just 1.3x 1995E EBITA for Philip Morris' domestic tobacco business, and 1.9x EBITA for RJR's. For Philip Morris, this is comparable to the market attaching a 70% probability to a domestic tobacco bankruptcy.

2. Of the two, RJR seems the better way to play potential turn in litigation post-Castano, given its higher % of profits from domestic tobacco (42% for RJR, 32% for MO) and higher leverage (enterprise value/common equity = 2.0 for RJR, 1.3 for MO). Restoration of normal 3.5x-4.0x tobacco multiples equates to 29% increase in RJR stock price and 19% increase in MO price.

3. On the basis of internal rate of return, both MO and RJR look cheap, but RJR offers more, particularly near-term. With two-year holding period, RJR's equity stream, consisting of initial $.30 dividend, and residual values of separate food and tobacco stocks two years out, offers 24% IRR; similar two-year MO equity stream implies 16% IRR. 5-year IRRs: RJR 20%, MO 18%.

4. We anticipate industry-wide $.04/pack price hike (+6%) during next 6-8 weeks. We believe market has already discounted pricing in valuations; absence of pricing during 1995 could cost MO about $(.30)/share, and RJR $(.09)/share. We believe PM USA overaccrued some $.40/share in marketing expense in 1994, and could achieve our profit forecast of 10% growth with no pricing.

5. Risks: Fundamentals: International volumes strong, but negative mix persists due to continued shift toward less-profitable Eastern Europe. Domestic risk: PM showed sharp sequential share growth in 4Q; pricing pressures could resurface if RJR's share abruptly declined. Litigation: Castano decision still seems at least a week or two away, as Judge Jones is in the middle of two trials. Rogers trial starts tomorrow in Indiana -- 23rd trial since 1954. Expect tobacco victory; 6-person jury helps plaintiff.

INVESTMENT CONCLUSIONS

We maintain our long-term outperform rating. Last weeks' rotation into consumer growth stocks may propel Philip Morris toward high end of recent $56-$64 range until Castano decision comes down in a few weeks. Longer-term, strong fundamentals and earnings momentum should permit Philip Morris' Board to

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increase the dividend to $3.90 (+17%) in August, in line with expected 1995E earnings growth. At target 5.5%-6.0% yield, this equates to $65-$70 stock. Downside seems limited to around $55: almost everyone is now predicting a limited class certification in Castano. We believe that investors have mentally prepared for the wave of adverse publicity that will likely accompany class certification. We calculate that Philip Morris, excluding domestic tobacco and net of debt, is worth about $54 per share. This, of course, assumes that Philip Morris can contain any adverse judgment within domestic tobacco. Philip Morris is now discounting roughly $25 billion in litigation risk, based on current discount to the market multiple. Philip Morris' shares could move explosively higher (10%-15%) if Judge Jones declines to certify Castano as a class action (20% probability). Philip Morris continues to trade at extreme (260 bp) relative dividend yield spread vs. the S&P (normal spread 50 bp). Philip Morris' current 65% relative multiple remains near its recent bottom of 60% following Marlboro-Friday and reached again last Spring. Revisions have been positive for eight consecutive months (our estimate $6.40; consensus $6.35). We rate RJR outperform ($7.75 target).

ADDITIONAL DETAILS

1. **Philip Morris: Conviction high on 17% growth in 1995, 14% growth long-term.** Philip Morris' strong year-end results added to our conviction that with no P/E expansion, the company can deliver near-20% annual returns at least through 1999. We look for 17% earnings growth in 1995, and 14% growth over the coming five years, fueled by continued share gains and margin expansion in overseas tobacco markets, and deployment of most excess cash flow for share repurchases. Philip Morris' stock price is again discounting just 5-6% earnings growth to be considered cheap -- which it can generate alone from reinvestment of excess cash flow.

Domestic tobacco: During 1995, we look for flat volume growth on a 0.5% share gain (to 45.3%), 5 points in pricing (likely during next 6-8 weeks), and margin expansion driven by flat production costs and some reversal of the marketing accrual built up during 1994 to help smooth the previously anticipated 1995 profit shortfall due to expected higher excise taxes. Longer-term, we see continued pricing stability, given a flat discount segment (32.5% in 1995E, 32.5% in 1994, 36.8% in 1993) as retailers push premium brands to drive traffic, and continued expected narrowing in the retail price gap ($1.85 premium vs. $1.30 discounts).

International tobacco: We believe Philip Morris can grow 1995 operating profits by 16% (1994 +19%) on 12% volume growth, (2)% pricing, and continued margin expansion as fixed costs are spread. Negative unit pricing reflects the changing geographic mix, as more volumes come from Eastern Europe. Philip Morris International now generates about 20% of its volume from the former CIS and Eastern Europe, vs. 10% in 1993, and less than 1% in 1988. We estimate that PM International earns $2.00 per thousand in CIS/Eastern Europe vs. $8.00/thousand in low-growth Western Europe and Japan, which account for 60% of profits.

Kraft foods: We don't share others' excitement about Kraft's fourth restructuring in six years. We doubt the plan to combine the Kraft and General Foods sales forces will result in all that much savings. Marketing and distribution of cheese and other refrigerated dairy products is very different than distribution of coffee, Jello, mayonnaise and cereal. We also have concerns that several Kraft franchises -- cheeses, pourables, jelly, and other staples -- continue to encounter pricing and margin pressures, given consumers' unwillingness to pay existing 20-25% premiums for the largely generic Kraft brand names vs. premium store

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labels. We count on 5% growth from Kraft going forward, which contributes about 2 points to Philip Morris' long term earnings growth.

Cash flow: The single biggest contributor to our 14% long-term growth forecast is reinvestment of cash flow -- of which $2 billion per year has been earmarked for share repurchases. Assuming a Philip Morris 1995E stock price of $65, repurchase of Philip Morris shares that generate $7.05 in 1995E cash earnings ($6.40 reported) implies an after-tax reinvestment rate of about 11%. Assuming the remaining $600 million in annual cash flow after dividends generates 4% after-tax returns (debt retirement, fill-in acquisitions), one can realistically apply a blended 9.5% after-tax equivalent rate to 1995E excess cash flow of about $2.6 billion. Off the existing net income base, this contributes approximately 5pp of earnings growth each year through 1999.

Contribution to Earnings Growth 1995E-1999E	1995E-1999E Growth % 1995-99E Growth %	% Mix of 95 profit	Contrib. to growth	Memo:95E Growth %
Domestic tobacco	6%	32%	+2 pts	10%
International tobacco	15%	29%	+4	16%
Food, beverage, and other	5%	39%	+2	5%
Segment growth	8%	100%	+8 pts	+10%
Tax rate and operating leverage			+1	+2
Cash flow (75% toward share repurchases)			+5	+5
Earnings growth			+14 pts	+17 pts

2. **Philip Morris vs. RJR: Internal rates of return, conventional valuation measures favor RJR.** On conventional valuation measures -- earnings growth vs. P/E, cash earnings growth vs. cash P/E, and EBITA growth vs. unlevered P/E-- RJR generally stands out as the cheaper of the two. We also calculated expected internal rates of return, equating the expected dividends, distributions, and terminal values to the current prices. Over both two-year and five-year periods, RJR offers higher compounded returns -- largely from the value created by lifting Nabisco's earnings out from under the tobacco valuation umbrella.

Valuation Measures	Philip Morris Growth	P/E	Ratio	RJR Nabisco Growth	P/E	Ratio
EPS growth to P/E	13.8%	9.5x	1.5x	17.5%	9.5x	1.8x
Cash EPS growth to Cash P/E	12.7%	8.6x	1.5x	12.7%	6.5x	2.0x
EBITA growth to Enterprise Value/EBITA	8.0%	6.0x	1.3x	7.8%	5.7x	1.4x
Expected growth vs.implied growth to be cheap	13.8%	5.6x	2.5x	17.5%	6.5x	2.7x
IRR - 2-year holding period	15.7%			24.2%		
IRR - 5-year holding period	17.6%			20.1%		

3. **RJR likely best way to play turn in litigation cycle, given high exposure to domestic tobacco and leverage.** Many investors have gone through the exercise of calculating what the market is implicitly paying for domestic tobacco at both MO and RJR, by subtracting from total enterprise value the theoretical valuations of the food and international tobacco segments. Excluding domestic tobacco, we compute a value of $54 at Philip Morris. We calculate that domestic tobacco will contribute about $4.25 in EBITA per share during 1995. This suggests that at $61, the market is paying about 1.3x 1995E EBITA for PM USA. Similarly, we calculate that RJR,

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excluding domestic tobacco, is worth about $4.15/share. RJR USA will generate about $.95 per share in EBITA during 1995. At $6.00, the market seems to be pegging the value of RJR USA at just under 2.0x 1995E EBITA.

Gary Black 212-756-4197
Jon Rooney 212-756-4504

END OF NOTE

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10:22am EST 30-Jan-95 Bernstein (GARY BLACK 212-756-4197) MO RN

MO: STOMACH THE RISK, VALUATIONS DISCOUNTING DOMES TOBACCO BANKRUPTCY (PT 2/2)

PART 2

Philip Morris and RJR Overdiscounting for Litigation Risks

	Philip Morris			RJR Nabisco		
Enterprise value:	Shares	Price	Value	Shares	Price	Value
Common equity	853.0	$60.63	$51.7	1,652	$6.00	$9.9
Preferred stock (non-convertible)	–		--	50	$22.75	1.1
Net debt (incl. 80.5% of Nabisco debt)			14.8			8.5
Enterprise value			$66.5			$19.5

Asset value:	1995E EBITA	EBITA Mult.	Value ($B)	1995E EBITA	EBITA Mult.	Value ($B)
International tobacco	$3,360	9.3x	$31.2	$861	8.7x	$7.5
Foods	3,873	7.4x	29.4	** See	ftnote **	9.6
Beer and other	640	6.0x	3.8			
Corporate	(445)	5.9x	(2.6)	(100)	5.7x	(0.6)
Asset value, ex-domestic tobacco	7,428	5.9x	$61.8	----	---	$16.5
Implied domestic tobacco	3,645	1.3x	$4.7	$1,577	1.9x	$3.0

** Nabisco enterprise value: Current $28 stock price, plus RJR's share of net debt, per prospectus.

Some investors with whom we've spoken stop at this point in the analysis, concluding that Philip Morris is cheaper. But this conclusion may be flawed, since the multiple points by which domestic tobacco is undervalued doesn't necessarily translate into the percentages by which the stocks are undervalued. Mathematically, the % increase in stock price should be a function of: the anticipated change in value of domestic tobacco, the company's dependence on domestic tobacco; and the effect of leverage:

% increase in stock price = % change in value in domest. tobacco x % enterprise value from domest. tobacco x enterprise value/equity value

In this situation, restoration of more "normal" 3.5x - 4.0x EBITA multiples on domestic tobacco (American Tobacco sold for roughly 4.0x EBITA to BAT) produces more upside at RJR (+29%) than MO (+19%), given RJR's higher % profits and value derived from domestic tobacco, and its higher leverage. One principle that we have seen play out repeatedly during the past three years is that RJR's stock price tends to react more to a cataclysmic event that changes perceptions about tobacco valuations. In the months following the Marlboro price cuts, the end of the price war, and last year's litigation wave, RJR's share price responded more than Philip Morris' each time, given its higher % value from domestic tobacco and higher leverage. The same relationship should hold in the coming months if there is an event that suddenly causes litigation fears to recede.

RJR: Better Way to Play Turn in Litigation Cycle

1995E Poten. Incr. Wghtd. Incr.

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	Dom Tob. EBITDA	Implied Mutl.	"Normal" Mult. (1)	Mutl. Expan.	in Ent Value	Avge. Shs.	in Price
Philip Morris	$3,645	1.3x	4.0x	2.7pts +210%	$9.9B +15%	853M	+$12
RJR Nabisco	$1,577	1.9x	3.8x	1.9pts +93%	$2.9B +15%	1653M	+$1.75 +29%

(1) Assumes investors value stand-alone domestic tobacco companies on yield: PM USA 7.5% yield, RJR USA 8.0% yield. Assume that both companies pay out 50% cash earnings as dividends, and are taxed at 40%

PM USA: Unlevered P/E = (1/.075) x 50% x (1 - 40%) = 4.0x
RJR USA: Unlevered P/E = (1/.08) x 50% x (1 - 40%) = 3.8x

(2) % change in stock price = % change in domestic tobacco multiple x % enterprise value from domestic tobacco x leverage effect

Philip Morris: (4.0x/1.3x - 1) x (($4.6/$66.5)x($66.5/$51.7)) = 210% x 9% = 19%
RJR Nabisco: (3.8x/1.9x - 1) x (($3.0/$19.5) x ($19.5/$9.9)) = 93% x 31% = 29%

GARY BLACK 212-756-4197
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END OF NOTE

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04:15pm EST 25-Jan-95 Smith Barney (R. Morrow (212) 698-3809) MO
Philip Morris: 4th Qtr EPS Hit the Bullseye-Strength Shown in all Operations

Ticker: MO
Price: $59 52wk Range: $65-$47 Rank: Current 1-M Prior 1-M
Note Date: 01/25/95
Fiscal Year: DEC

		1 Qtr.	2 Qtr.	3 Qtr.	4 Qtr.	Year
Actual	1994 EPS	$ 1.38A	$ 1.20A	$ 1.10A	$ 0.90A	$ 4.58A
Previous	1995 EPS	$ 1.34A	$ 1.42A	$ 1.42A	$ 1.27E	$ 5.45E
Current	1995 EPS	$ 1.34A	$ 1.42A	$ 1.42A	$ 1.27A	$ 5.45A
Previous	1996 EPS	$ 1.57E	$ 1.66E	$ 1.74E	$ 1.48E	$ 6.45E
Current	1996 EPS	$ 1.54E	$ 1.64E	$ 1.68E	$ 1.59E	$ 6.45E

Price (As of 01/24).: $58	Revenue (1994)....: $65.1 bil
Return on Equity(93): 34.8%	Proj. 5yr EPS Grth: 17.0%
Shares Outstanding..: 861 mil	Dividend Yield....: $3.30/5.7%
Mkt. Capitalization.: $49.6 bil	P/E 95: 96...: 10.6X: 9.0X
Current Book Value..: $18.35	Comments..........:
Debt-to-Capital.....: 41.5%	Hedge Clause(s)...:

- No great surprise here! Philip Morris' 4th quarter came in right on target with earnings per share reported at $1.27 vs. $0.90(excluding restructuring charges). For the year earnings were $5.45 up 19% vs. $4.58 (also excluding the extraordinary charges). The quarter and the year were for the most part a testament to the recovery of profitability in their domestic tobacco business and the continue growth of international tobacco and foods. It was also a testament to the continued strength of the Marlboro brand globally.

- While struggling through a significant change in management ranks and restructure of their asset base the company managed to grow domestic cigarette unit volumes up 12.7% to 219.4 billion units against a 6.2% industry shipment gain: grow international cigarette volumes by 16.6% to 536 billion units (now better than double the amount sold domestically) increase the operating margins in the North American food business to more respectable levels: increase the profit contribution from Miller Brewing by better than 16%: increase the common dividend by 26.9% and repurchase 28.8 million shares. In short there was no moss growing on these guys, they are positioning MO for rapid growth over the next several years.

- Specifically, the domestic tobacco business had a revenue gain of 8.6% on a volume gain of 12.9% for the year with the fourth quarter up 8.2% in volume and 12.6% in sales versus last years price war plagued results. What is the most important factor aside from growing Marlboro's share to over 29% of retail consumption is the rebuilding of operating margins back to close to 39% for the year after falling to a low of 26% in the fourth quarter of 1993. While we anticipate modest volume gains for 1995 and maybe only one price increase at mid year approximating 5%(giving us about 2.5% to 3% for annualized pricing), we are anticipating continued cost improvements to allow domestic tobacco's profits to grow some 6% next year.

- International tobacco with volumes up over 16 for the year, sales up 11.5% and operating profits up 21.9% showed momentum through the fourth quarter. Strong volume gains in eastern Europe, Japan and the Middle East coupled with export volume gains of 49% in the quarter allowed total international volumes to rise 16.9% with operating profits jumping over 38%. Margins in the international tobacco division continue to expand

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rising almost 400 basis points this past year. We would anticipate continued profitability improvement in 1995 as manufacturing efficiencies couple with expanded distribution to accelerate growth. With volumes anticipated to rise better than 9% for the year we are anticipating operating profits to grow at better than 19%.

- North American foods improved as the year progressed. While revenues for the year rose a modest 2.7% with overall volumes up 2% operating incomes were up 5.4% as the company continued to trim costs and deliver manufacturing efficiencies. The momentum again was strong in the fourth quarter with volumes up 6%, sales up 10.9% and operating earnings up 7.2%. Coffee with the escalating prices hurt volumes and margins (Maxwell House volumes were down 13%) while solid gains were had by Entennmans(up 8%),Post cereals (up 30% - 7% to 8% if the Nabisco RTE business is excluded),Oscar Mayer (up 10%) and cheese (up 10%). The combining of Kraft and General Foods in to one operating company will, in our estimation, continue to generate savings and distribution efficiencies. This next year the Kraft Foodservice business will be gone which will eliminate some $4.4 billion of sales and about $82 million of operating profits, so while we continue to anticipate improvement in the domestic packaged food business and also some other asset sales (the food ingredient business with $740 mil of revenues and $80 mil of profits), our expectation is for North American foods to show revenues down some 13% and operating profits up perhaps 3% in 1995.

- International foods was extremely hampered by the strong move in coffee prices. While showing flat volumes overall the division managed to increase the year's sales by 7.2% and operating income by 3.2%. Currency fluctuations impacted results by $50 million in the first half alone. Coffee volumes were down 4% due to the aggressive price moves while confection rose 2% and cheese and grocery were up 1%. This is an area where Kraft - Jacob Suschard should show much better volume growth and rising margins. The consolidation of businesses plus expansion of distribution and new product introductions should allow 1995 volumes to crawl back toward 3% to 4% growth and operating profits to rise in low double digits.

- Miller Brewing had a great fourth quarter and a very solid year overall. Volumes for the year rose 2.9% with revenues up 3.4% highlighting the continuing increase in revenue per barrel the product mix is creating. Operating profits were up 16.2% again due to the shift in mix and continued favorable capacity utilization. The Miller Ice continues to make up for the softness in Genuine Draft and the company's newest entry Red Dog is off the charts. We are anticipating Miller to have another good 1995 with barrel volume up 2.4%, revenues up 5.0% and profits up over 10%.

- In total the quarter and the year for MO came in right on our expectations and while when 1994 started we were at the high end of street consensus, the results proved our point. The momentum is back, this company is poised to continue to show exceptional earnings gains on a quarterly basis for the next several quarters. In fact, truth be known, the earning power of the company in each of the last four quarters was significantly above the reported results. They are hiding earnings folks (we figure about $0.35 per share this year), tucking them away for a rainy day, smoothing the results for consistency. We remain with our 1994 earnings estimate of $6.45 per share and our 1996 estimate of $7.55. Even with the stock depressed due to the scare of litigation this baby is cheap. We continue to look for a target price of $83 over the next 12 months as the litigation clouds dissipate and the common begins to be valued at a modest 12.5 times earnings (still about a 20% discount to the S&P 500). The company ended 1994 with 853 million shares outstanding after buying back over 28 million and we would anticipate a significant piece of their $3 billion of free cash flow to continued to be use to repurchase shares. We are aggressive buyers of MO and rate the common a 1,M (BUY,

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Medium risk). Philip Morris is our top pick this year in the tobacco industry.

* Smith Barney usually maintains a market in the securities of this company.

Within the last three years, Smith Barney , or one of its affiliates, was the manager (co-manager) of a public offering of the securities of this company or an affiliate.

END OF NOTE

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04:11pm EST 25-Jan-95 Goldman Sachs (COHEN**) MO
MO : O494 Operations Stronger Than Expected. Cont. to rec.

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Goldman, Sachs & Co. Investment Research

Philip Morris Companies, Inc.

O494 Operations Stronger Than Expected. Cont. to rec.

Marc Cohen (212) 902-0004 - New York Equity Research

=============== Note 4:00pm 1/25/95 ===============

	Stock Rating	Latest Close	52 week --- Range ---	YTD Pr Chg	Div Rate	Gross Yield
Philip Morris Companie	RL	58.25	65-47	1	3.30	5.7

	FY/IP	EPS94	Est. EPS95	PE95	- Interim EPS - --Next-	-YrAgo-	-EBITDA per/sh	94- p/e
MO	12/04O	5.45R	6.40	9.1	1.27	0.90	n/a	n/a

===

* O494 EPS of $1.27 matched our estimate and compared with 91c on an operating basis last year.

* Operations might have produced EPS that was 5c above our estimate, but one-time non-operating expenses brought down the reported result EPS.

* This raises our confidence that EPS will increase by 17-18% again in 1995 to $6.40. We expect EPS of $7.30 in 1996 and 14% long term growth.

* Our sum of the parts analysis suggests that investors could be valuing U.S. tobacco operations as low as only 1x operating cash flow (EBITDA).

* We continue to perceive a very favorable reward/risk balance in MO shares and continue to RECOMMEND PURCHASE.

===

ADDITIONAL DETAILS:

1. OPERATIONS WERE STRONGER THAN EXPECTED CLOSING OUT 1994 - Worldwide tobacco profit growth of 53% was 5% above our estimate and food/beverage profit growth of 9% was 3% higher in O494 despite double digit marketing expense growth in all non-U.S. cigarette operations. This performance, joined with lower than expected interest expenses suggests that the company had an opportunity to very comfortably exceed our $1.27 estimate. One-time non-operating expenses alone apparently penalized EPS by 5c.

2. U.S. CIGARETTE PROFITABILITY EXCEEDED EXPECTATIONS - Philip Morris USA shipment growth of 7.4% was about 1% stronger than we expected and the mix between premium and discount brands held steady compared with figures reported for O394. The operating profit margin of 38.1% was significantly higher than the 35.3% margin we expected (vs. 26.2% in 1993) primarily because marketing expenditures were down 20%. Operating income increased by 66% for O494 and by 18% for the full year. Despite this positive surprise, we did not raise our 1995 profit forecast. Our estimate now anticipates a 1% volume decline instead of flat units in 1995 and still

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incorporates a 5% price increase in October, but there is now room for a favorable surprise on either the volume or pricing side.

3. INTERNATIONAL CIGARETTE TRENDS REMAIN VERY STRONG - International unit volume advanced by 9% in both the EEC and Asia Pacific regions in Q494. Demand increased by 23% in the key Japanese market - which alone contributes 20-25% of profit - and rose by 6% in Germany and 4% in Italy which are the major European profit centers. Recovery in Turkey to positive unit growth of 13% was another standout feature. We continue to expect 7-8% unit growth and 18% profit growth in international cigarette operations in 1995 based upon expanding market share in the EEC and Pacific and a growing volume base in Central and Eastern Europe.

4. FOOD OPERATIONS PROMISE IMPROVEMENT - North American units increased by 6% in Q494 and 2-3% for the year. The company posted strong Q4 gains in cheese (+10%), cereal (+30%), meats (+10%), desserts (+9%), baked goods (+8%), and powdered beverages(+20%), but coffee (-13%) and viscous items (0%) were weak. The operating profit margin fell to 10.3% from 10.7% because of price reductions and mix shifts to lower margin items. We expect pricing to remain tough in 1995. Nevertheless, management expects units to rise 2% and profit 5-6% in 1995. International units are also expected to grow 2-4% and profit to grow 10% in 1995 as coffee recovers from the commodity induced price spike and normal weather in Europe favors confection volume.

5. U.S. CIGARETTE BUSINESS BEING VALUED NEAR ZERO - Philip Morris reported that debt was about $15 billion at year-end or $1.00 per share less than we previously estimated. Revising for the updated debt figure, our sum of the parts analysis shows that market participants still appear to be valuing the U.S. cigarette operation at only $2-6 per share which is only 1.4x EBITDA at the high end.

Table 1
Given: Levered Enterprise Value = $76
Debt = $17.56 per share

Division	EBITDA MULTIPLE	PRICE
KGF	7X	$37
Miller	6	4
Financial Services	5	1
INTL Tobacco	7-8	28-32
U.S. Tobacco	0-1	2-6
TOTAL	5X	$76

6. MAINTAINING RECOMMENDED FOR PURCHASE RATING - The sum of the parts analysis continues to suggest that there should not be much downside to the 12 month stock price. We believe that there is little justification for the market to sustain such a low valuation on the U.S. tobacco operation in the face of the legal developments we anticipate and that improving business trends could improve attitudes towards food operations. Our target price of $75 within a 12 month time-frame would equate to only about a 1 point improvement in the current p/e multiple.

Important Disclosures (code definitions attached or available upon request)
MO : M,CP,CF

=============== Further Information ==============

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P. 3 of 3

This investment commentary was made available on the Goldman, Sachs & Co. Research Portable Lite at 16:00 New York time on 1/25/95 . Please contact your Goldman Sachs representative for additional details.

END OF NOTE

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P 1 of 3

04:00pm EST 25-Jan-95 Dean Witter (LAWRENCE ADELMAN) MO
DWR: FOR PHILIP MORRIS, 1994 YEAR ENDS ON A STRONG NOTE: RATED NEUTRAL

Company: PHILIP MORRIS
Symbol: MO
Price: $59
Target Price: $65

Analyst: LAWRENCE ADELMAN
Telephone: (212) 392-3568
Date: 1/25/95
First Call Consensus: 95: $6.33

		EPS (FY Mo: DEC)			P/E Ratios++		ROE		Ind.	Cur.++
	Rating	93A	94A	95E	94A	95E	94A	95E	Div.	Yld.
Current:	N	$4.58*	$5.45A	$6.35	10.8x	9.3x	32.3%	32.4%	$3.30	5.6%
Prior:			$5.45E							

	Book Value	LT Debt/ Capital	5-year Est. EPS Growth	Quarterly Earnings Qtr (Mo.)	Est. EPS	Yr. Ago	Foot-notes
Current:	$14.54	38.0%	15%	Mar.	$1.60E	$1.34	o
Prior:				Dec.	$1.27A	$0.90	

* Before non-recurring charges of $1.06 per share.
++ Yield and P/E figures are based on the price in effect when this report was written. These numbers should be recalculated using the current price.

DWR: FOR PHILIP MORRIS, 1994 YEAR ENDS ON A STRONG NOTE: RATED NEUTRAL

*** INVESTMENT OPINION: WE MAINTAIN OUR NEUTRAL RATING ON THE SHARES OF MO**
The certification of two class-action liability cases in the state of Florida and the pending certification ruling on a third (Castano-Louisiana) represent an important negative overhang for tobacco stocks. Thus, despite the significantly improved regulatory outlook given Republican control of the House and Senate and the major turnaround in tobacco operating fundamentals for Philip Morris, we are maintaining our Neutral rating in the tobacco sector, and, thus, on the stock of Philip Morris.

*** WORLDWIDE SALES CLIMBED 12% IN 4Q TO $16.5 BILLION**
Led by a 14% gain in worldwide tobacco revenues, Philip Morris' worldwide sales climbed 12% in the fourth quarter to $16.5 billion. Operating profit margins widened to 15.0%, up from 13.2%, and thus worldwide operating profits advanced 27% to $2.48 billion. Pretax profits excluding a restructuring charge in the fourth quarter of 1993, climbed by 36% to $1.88 billion. EPS before unusual items advanced 41%, to $1.27 from $0.90, and were exactly in line with our forecast. Full-year 1994 EPS before unusual items rose 19% to $5.45, up from $4.57.

*** DOMESTIC CIGARETTE VOLUME IN THE FOURTH-QUARTER OF 1994 ROSE 7%**
Domestic volume rose to 54.74 billion units. We were particularly impressed with the continued recovery in Marlboro as that brand's volume expanded by 17% to 34.9 billion units. As a result, total full-price volume rose 13%, to 44.4 billion units and accounted for 81.1% of volume, up from 77.3% a year-earlier. Volume of the company's value brands declined 11% to 10.3 billion units and represented 18.9% of sales compared with 22.7% a year-earlier.

At the retail level, the company's overall market share in the fourth

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quarter rose to 46.4%; Marlboro captured a record 29.4% share of market in this period.

* FULL YEAR DOMESTIC CIGARETTE SHIPMENTS ROSE BY 13% TO 219.4 BILLION UNITS
For the full 1994 year, Philip Morris' domestic cigarette shipments recovered by 13%, to 219.4 billion units. Marlboro shipments climbed by 27% to 137.7 billion units, while total shipments of full-priced brands advanced 22%, to 177.1 billion units. Sales of price value brands fell by 15%, to 42.3 billion units and accounted for 19.3% shipments, down from 25.6%. Likewise, full-priced brands for the full-year 1994 accounted for 80.7% of shipments, up 6.3 points.

Total domestic tobacco sales in 1994 climbed by 9%, to $11.1 billion, reflecting a 4% reduction in gross revenues per unit. Because costs per unit (excluding excise tax) dropped about 10%, domestic operating profit margins widened to 29.7%; up from a depressed 27.5%, and, thus, full-year operating profits of domestic tobacco recovered 18% to $3.3 billion. Marketing expenditures in the domestic tobacco business declined 20% in the fourth quarter from extremely high levels a year-ago and fell 7% for full-year 1994.

* 1994 INT'L CIGARETTE SHIPMENTS CLIMBED 16.6%
International cigarette shipments in 1994 climbed a phenomenal 16.6%, to 536 billion units. In the fourth quarter, international volume climbed by 19.4% aided by the export component, which advanced 49.4%. Volume trends for the full-year 1994 in major geographical regions were as follows: EEC, +7%; Asia/Pacific, +10%; Latin America, +4%. Volume growth was outstanding in countries such as Spain with a 24% increase, Japan with a 15% hike and Germany and Argentina with 8% increases. Volume softness was registered in Mexico with an 8% decline and in Turkey with a 30% falloff, although volume in Turkey climbed 13% in the fourth-quarter.

* INTERNATIONAL TOBACCO REVENUES CLIMBED 12% TO $17.6 BILLION
For the full-year 1994, international tobacco revenues climbed 12% to $17.6 billion. Margins widened to 16.4%, up from 15.0%, allowing operating profits to rise 22%, to $2.88 billion. Gains in foreign currencies boosted fourth-quarter profits by $17 million, but penalized full-year tobacco international earnings by $71 million.

* REVENUES FROM NORTH AMERICAN PACKAGED-FOOD OPERATIONS ADVANCED ONLY 3%
N.A. packaged food revenues reached $21.6 billion. Excluding divestitures, revenues climbed by 6%. Margins improved to 11.8% from 11.5%, and this permitted operating profits to advance 6%, to $2.5 billion. Unit volume, excluding dispositions and acquisitions for both the full year and fourth quarter, climbed by about 2%. A representative sample of selected product categories and their full-year volume growth are as follows: cereals, 13%; Jell-O, 6%, powdered beverage, 4%; cheese products, 7%; grocery products, unchanged; and Oscar Mayer, 5%. Because of significantly higher prices, coffee volume in the U.S. declined by 10%.

KGF international revenues increased 7%, to $10.1 billion, while operating profit margins declined for the second year in a row to 11.4% from 11.8%. Margin pressure was primarily due to a negative foreign currency swing which penalized full-year operating earnings by 1.5% while foreign currencies aided fourth-quarter earnings by $33 million. Thus, KGF's international's full-year operating profits advanced only 4% and increased 8% in the fourth quarter. From a tonnage standpoint, including acquisitions volume was flat and excluding acquisitions volume declined about 1%. For the full year, coffee volume declined 4%, cheese volume rose by 1% and confectionery tonnage increased by 2%.

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* MILLER BEER SHIPMENTS CLIMBED 2.8% TO 45.2 MILLION BARRELS

Miller beer shipments, including the acquisition of Molson USA, climbed 2.8% to 45.2 million barrels. Excluding the acquisition of Molson, we estimate that ongoing beer volume climbed by 1% for the full year. Volume trends by brand for full-year 1994 were as follows: Lite and Lite Ice, up 3%; Lite itself, down 5%; High Life, up 1%; Genuine Draft, down 7%; and budget brands, down 12%. Because of the second consecutive year of significant cost reductions full-year operating profit margins rose to 9.7%, up from 8.6%. Thus operating profits jumped 17% to $415 million.

The Capital Corp. which consists of a financial services and real estate business, registered a 16% operating profit drop to $209 million. The income decline was primarily due to the sale of the division's fixed-income portfolio in early 1994, which resulted in a $475 million dividend to Philip Morris Companies, Inc.

Our 1995 and 1996 earnings estimate of $6.35 per share and $7.40, respectively, remain unchanged.

END OF NOTE

P.1 of 2

03:24pm EST 25-Jan-95 Brown Brothers Harriman (Nelson. J.G.) MO
MO: STRONG YEAR. BUMPING UP ESTIMATES--BUY

BBH BBH BBH BBH BBH BBH BBH BBH BBH BBH BBH BBH BBH BBH BBH BBH

BROWN BROTHERS HARRIMAN & CO.

PHILIP MORRIS (BUY)

JAY NELSON. CFA (212) 493-8281

MO: STRONG YEAR. BUMPING UP ESTIMATES--BUY

		EPS			P/E		Dividend			
	Price 1/24	12/94	12/95E	12/96E	12/95	12/96	Rate	Yld.	5-Yr. Grwth	52-Wk Range
MO	S58 1/4	S5.45	S6.30	S7.10	9.2	8.2	S3.30	5.7%	13%	S65-47

O4 EPS rose fully 41% year to year from S0.90 to S1.27. about matching our estimate of S1.28 (but still somewhat below O4-1992's S1.34). For the full year. EPS rose 19% from S4.58 to S5.45. exactly matching 1992's record. We are raising our 1995 and 1996 estimates by S0.05 per share each to S6.30 (+16% year to year) and S7.10 (+13% vs. S6.30). respectively.

We view MO as a 13% long-term grower. in both EPS and dividends per share. Of course the smoking-and-health complex of issues depresses MO's P/E on what we assume is a permanent basis and indeed does so currently from a very specific source: a lower-court decision in the Castano case (addiction class action) on the issue of class action certification is expected momentarily and may well go against the industry. However. we believe that the current P/E discount--MO sells for 9.2 times our revised S6.30 for 1995. or just 0.68 times the corresponding multiple of the S&P 500 (using our S34.50 before write-offs for the 500) more than discounts the smoking-and-health risk. We could see the relative at 0.80 within six-nine months. which would produce an 18% gain in the shares in a flat market. We continue to recommend purchase.

Domestic Tobacco's O4 operating profits (OPs) rose 66%. a bit below our estimate of a 74% gain. For the year OPs rose 18% (but still trailed 1992's level by 36%). Unit volume trends were excellent in O4 and the year. O4 shipments rose 7.4%. the year's 12.7%. Industry shipments rose 6.2% for the year. so MO's share (of industry shipments) rose from 42.2% in 1993 to 44.5%. MO's share of the premium segment (measured in shipments) rose from 49.7% to 53.6% and indeed premiums accounted for 81% of MO's shipments in 1994 versus 74% in 1993. MO's Nielsen (retail) share was 46.4% in O4. up 4.7 share points from March 1993. i.e. before Marlboro Friday. Industry consumption appears to have been off less than 1% in 1994. an improvement vs. the recent trend of 2%-3% annual declines. (Marlboro's O4 retail share was a record 29.4%. up from 22.0% in March 1993.)

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International Tobacco's OPs rose a surprisingly strong 39% in seasonally-small O4--our estimate called for a 21% gain--and 22% for the year. Unit volume rose 19% in O4 and 17% for the year. boosted to be sure by an outsized gain in combined Central and Eastern Europe but "volume advanced in virtually all established markets" and MO gained at least 1.0 share point in 13 of its 20 most profitable markets. O4 exports from the U.S.. which are

highly-profitable. rose 49%.

North American Food's OPs grew 7% in Q4 and 6% for the year. about as expected. For the year. Post Cereals continued very strong. gaining share (to 17.8% or so). and volume and share grew strongly in the important cheese business. In coffee volume was way off due to higher bean (and therefore retail) prices.

International Food OPs grew 8% in Q4. virtually all of which stemmed from favorable currency effects. In a disappointing year. OPs rose just 3.5%-5.5% adjusted for currency--as volume was flat (coffee volume down 4%. confectionery up 2%).

Miller had a good year with OPs up 17% on about a 2% underlying barrelage gain (beating the industry's 0.5% gain). Miller did very well with its ices and new Red Dog is performing well though Genuine Draft including GD Light was down 7%.

MO repurchased 29 million shares in 1994. or 3.5% of shares outstanding. With good volume momentum in DT and IT. We are confident MO can grow EPS 16% in 1995 to $6.30.

END OF NOTE

P.1 of 2

03:18pm EST 25-Jan-95 Salomon Brothers (Diana K. Temple 212 783-6671) MO
Philip Morris -- EPS up by 17% With 15% Cigarette Unit Growth

Philip Morris -- EPS up by 17% With 15% Cigarette Unit Growth
Inv. Code: Buy
EPS: 1994E: $5.45 1995E: $6.40
-
Price: $58 3/4
-
January 25. 1995
-
Philip Morris earnings per share were on target rising by 17% to $5.45 per share for the year and 41% for the quarter to $1.27 from $0.90 a year ago.
-
We recommend Philip Morris believing that the stock can sell at 11-12 times during the window between class action certification and eventual trial one-to-three years hence.
-
U.S. units rose by 12% to 219.4 billion relative to a 6% industry gain to 489.7 billion giving Philip Morris a 44.8% shipment share. Fourth quarter units rose by 5%.
-
Marlboro had a fourth quarter retail share of 29.4% up 7.4 share points from March 1993. Their total fourth quarter retail share was 46.4% up 4.7 points from March 1993.
-
U.S. tobacco profits reached $3.3 billion up by 18% and equal to a 29.7% margin versus 27.4% margin in 1994. Revenue per 1.000 cigarettes was $50.79 per thousand in the fourth quarter virtually unchanged from the third quarter level indicating firm pricing and mix.
-
Fourth quarter U.S. profit per unit was $14.82 down by 2% from the third quarter level reflecting increased discretionary spending on advertising.
-
Because profits and units exceeded expectations due to flat consumption in 1994. for the first time in ten years. we believe that the industry will be less inclined to discounting near term and positive surprises are likely for domestic tobacco. We project a 8% U.S. profit gain in 1995 and units could increase slightly if the company holds its fourth quarter share while industry units drop by 2.5%.
-
International was strong with a 17% unit gain to 536 billion. a 12% revenue gain to $17.56 billion and a 22% profit gain to $2.877 billion for a 16.4% margin. Units in Eastern Europe and CIS reached 95 billion up from 45 billion in 1993 and equal to 43% of U.S. sales
-
Market shares were up in Germany (38.0% versus 37.0%) Italy (48.5% versus 47.0%). France (30.0% versus 28.5%). Spain (17.0% versus 13.7%). Japan 13.5% versus 12.3%) and Brazil (20% versus 16.6%).
-
Excess cash flow totaled $3 billion and is estimated at $2.7 billion for 1995 before any divestitures or working capital reductions. share buy back totaled $1.6 billion (28.8 million shares) and shares outstanding were 853 million in December. Debt was reduced $1.8 billion to $16.5 billion.
-
North American food earnings rose by 6% to $2.5 billion on a 3% revenue gain (6% ex divestitures) to $21.6 billion for a 11.6% marketing. Proforma for the two divestitures profits may have equaled 2.45 billion on 17.3 billion in revenues for a 14.2% margin up from 11.5% in 1993. While cost cutting could

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boost the margin to 15% in 1995. the longer terms challenge is new product creation.

-

International food profits grew by 4% to $1.15 billion on a 7% sales gain to $10.11 billion for a 11.4% margin. Euro currency translation will be a plus in the 1995 first half permitting 10% revenue growth for 1995. Discretionary spending held fourth quarter profits to a 8% gain despite 14% revenue growth.

-

Miller was better than expected with a 17% profit gain to $415 million on a 3% revenue gain to $4.2 billion for a 9.9% margin.

-

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END OF NOTE

09:46am EST 26-Jan-95 UBS Securities (Brenner, Anton 212 821-4638) MO
MO: INCREASING ESTIMATES IN ANTICIPATION OF 20% EPS GROWTH IN 1995 & 1996

UBS SECURITIES
ANTON J. BRENNER (212) 821-4638
GREGORY P. MILLER (212) 821-4681

1/26/95

PHILIP MORRIS (MO) RATING: BUY
MO: INCREASING. ESTIMATES IN ANTICIPATION OF 20% EPS GROWTH IN 1995 AND 1996

	52-Week	Earnings Per Share			P/E			
Price	Range	12/94	12/95E	12/96E	12/95E	12/96E	Divd	Yield
58	64-47	$5.45	$6.50	$7.80	8.9	7.7	$3.30	5.7%

Philip Morris' fourth quarter EPS of $1.27 versus $0.90 was in line with our expectations. Several factors convince us that MO's EPS growth rate will be 20% over the next two years, rather than the 15% annual growth that we had been projecting. Accordingly, we are increasing our 1995 estimate from $6.20 to $6.50 per share and we are initially projecting profits of $7.80 per share in 1996. On this basis, we believe the stock, priced at only 9 times 1995 EPS and with a 5.7% yield, is exceedingly attractive solely on the basis of earnings growth and yield, without having to rely on valuation improvement in the face of ongoing litigation concerns. We reiterate our purchase recommendation.

The following factors should contribute to earnings growth acceleration beginning in 1995:

_ We note that in the fourth quarter, earnings growth accelerated sharply despite the fact that marketing outlays soared. In fact, 51% of the full year increase in marketing, administration and research costs were recorded in the fourth quarter. Marketing spending rose much more dramatically in each division except domestic tobacco, where outlays declined 20% versus an unusually large marketing effort in the year-earlier period. Marketing increases for the 4th quarter and full year, respectively were 18% and 13% for international tobacco, 18% and 5% for international food, 11% and 2% for North American food, and 14% and 4% for Miller Brewing. PM USA outlays declined 20% and 7% in the respective periods. The point is that reported earnings in the fourth quarter in fact were understated as a result of the surge in marketing outlays, while unit sales comparisons in 1995 should benefit.

_ Marlboro sales and market share in the U.S. continues to improve. The brand's domestic share is fractionally below 30%, up from 22% in March 1993 at the time of Marlboro Friday. With sales momentum of Marlboro and other premium brands intact, price stability in the marketplace, and consumers no longer shifting to discount brands following the 1993 price adjustment, profit margins in domestic tobacco are improving more than we had assumed. Accordingly, we now look for an 8%-10% rise in domestic tobacco operating income in 1995, up from our previous 3%-4% forecast.

_ International food profits in 1994 rose only 3.4%, with almost all of the increase in the 4th quarter, in part as a result of a $30 million unfavorable currency translation. In the first half, currency translation reduced food profits by $60 million, which was partly offset in the final period by a $30 million currency gain. Assuming stable currencies, this would imply a favorable $120 million earnings swing for international foods in the first half of 1995, and $150 million for the full year, which would

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be a 13% full year earnings increase just on this basis. Consequently, international food operating profits for the full year may be up by close to 20%.

_ The ongoing streamlining of the North American food operation is beginning to produce an acceleration in earnings growth. Fourth quarter operating profits for the division rose 7.2% after a gain of only 5.2% in the first nine months of 1994. With additional efficiencies being implemented, we now anticipate an increase in operating profits of 7%-9% in 1995, versus our earlier projection of a 5.6% improvement.

_ The company reduced debt by $1.8 billion in 1994, reducing its debt/capital ratio to 53.9% from 58.5% at the end of 1993. We estimate that this will result in a decline in net interest expense of almost 11% in 1995, further leveraging the increase in operating profits.

Philip Morris has enormous flexibility to report almost any earnings growth rate it chooses to for a given period of time. We believe that fundamental improvement in the operating outlook, including the factors mentioned above, will result in a more rapid earnings growth rate at some point over the next few years. And we note that MO's new top management is under enormous pressure to enhance stockholder value. Given the litigation concerns, which may well persist for several years and over which management has little control, its ability to create catalysts for a higher stock price seem limited to share repurchase, dividend increases, and earnings growth. An accelerated share repurchase program has only just begun to be implemented, and we see little likelihood that this $6 billion three-year program will be enhanced over the near term. The common share dividend was increased 27% last year. Although these actions initially resulted in strong stock price performance, this was subsequently reversed by perceived unfavorable litigation developments.

We believe that the only reason MO would fail to deliver a 20% earnings increase in 1995 is if management fears that action also would be shrugged off by the market, which would continue to focus almost totally on the litigation arena. This is possible, but we doubt that MO's management anticipates a long string of unfavorable court rulings over the next year, and in our opinion there is a strong likelihood that the earnings acceleration will commence this year. A key indicator of this should be a price increase on cigarettes in the U.S. MO's volume and margin trends here are strong and should remain so without any price increase this year. However, to hit the upper end of our 8%-10% range for domestic tobacco profit increase, a price increase of perhaps 5% would be required. Should MO implement such an increase by mid year, it would be a clear signal to us that we are right.

END OF NOTE

08:15am EST 26-Jan-95 PaineWebber (EMANUEL GOLDMAN (415) 954-6772) MO
PHILIP MORRIS: ON-TARGET FULL YEAR RESULTS

Rating=1 (MO)
Closing Price=$58 3/8
Current FY EPS EST=$5.45A
Next FY EPS EST=$6.30 (nc)
FY End=December

Phillip Morris* reported Q4 and full year EPS of $1.27 and $5.45, respectively, up 41% and 19%, and on target with our forecast. For 1995, our EPS forecast is unchanged at $6.30, a 16% increase. Our rating on MO stock remains buy (1). Highlights of the quarter and full year follow.

Domestic cigarette units were up 7% and 13%, respectively, in Q4 and full year, led by a strong increase in Marlboro shipments. Specifically, Marlboro's shipments rose 17% in Q4 and 27% for the year, bringing Marlboro's market share to 28.1%. Industry shipments were up 0.3% in Q4, leading to a full year increase of 6.2%. Full-price brands accounted for 81% of MO's shipments in the fourth quarter and full year, while deep discount brands fell to 14% of MO's total shipments. Shipments of other full-priced brands rose 8% for the full year, led by double-digit gains by Merit and Virginia Slims. Shipments of Basic, MO's main discount brand, were off 6% for the full year, to 23 billion cigarettes. In total, MO's premium-priced cigarettes rose 22% in 1994, to 177 billion cigarettes, while its discount brands fell 15%, to 42 billion cigarettes. For the full year, domestic tobacco earnings rose 18%, to $3.3 billion, this following the prior year's 46% decline in domestic tobacco earnings.

MO's cigarette shipments overseas rose 17% for the full year, to 536 billion units, up 76 billion cigarettes over the prior year. We believe that over half of this increase came from shipment gains in Eastern Europe and Russia. Strong double-digit volume growth was seen during Q4 and full year in Japan (up 15% for the year), Spain (up 20% for the year), the Netherlands, and Korea (up 15% for the year). MO's international tobacco earnings rose 22% for the full year, to $2.9 billion, and accounted for 27% of the company's total earnings.

International food earnings rose 8% in Q4, to $397 million, and 4% for the full year, to $1.2 billion. Currency translation had a positive $30 million impact in Q4, bringing the full year effect to a negative $20 million. Q4 volume was off slightly (2%), led by a decline in coffee volume as a result of higher green bean prices. For the full year, international food volume was flat.

MO's domestic food operating income rose 7% in the quarter, to $579 million, and rose 6% for the full year, to $2.5 billion. Volume increased 5% in the quarter (excluding dispositions) and was up 2.5% for the full year. Profits were up 7-8% in the company's cheese business, while Oscar Mayer's earnings rose 15%. Earnings from the coffee business were up, following an increase in green bean prices, while earnings from Jell-O and powdered beverages fell slightly.

MO repurchased 8.8 million shares in the quarter, bringing the full year total to 28.8 million, as compared to the prior year's repurchase of 17.5 million shares. Separately, the company's sale of its Kraft Foodservice division is expected to close during Q1 95.

*A subsidiary of PaineWebber Incorporated acts as a specialist that makes a market in this security. At any given time the specialist may have a position, either long or short, in the security, and as a result of the associated specialist's function as a market maker, such a specialist may be on the opposite side of orders executed on the floor of a national securities exchange. Kidder, Peabody & Co. Incorporated

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was manager or co-manager of a public offering of this issue or one of its subsidiaries.

More information available upon request.

END OF NOTE

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p 1 of 2

11:43am EST 26-Jan-95 Bear Stearns (J.PAGE/J.DORMER(212)272-4257) MO
MO: 1995 OUTLOOK 1994 ANALYSIS OF RESULTS

June D. Page (212) 272-4257
James A. Dormer (212) 272-6551

January 25, 1995

BEAR, STEARNS & CO. INC.
EQUITY RESEARCH
Philip Morris (MO - 58.38) - Buy

MO Reports Excellent 4Q/1994 Results - Expect More of Same 1995

***4Q Results driven by surge in domestic and international tobacco operations.

***Continued market share and volume gains and stable pricing environment in domestic cigarette operations expected for 1995

***Still waiting for court ruling on class action certification for Castano case in New Orleans

EARNINGS		Q1 Mar	Q2 Jun	Q3 Sep	Q4 Dec	Year	P/E
Current	1994	$1.34A	$1.42A	$1.42A	$1.27A	$5.45A	10.7x
Current	1995	$1.58E	$1.67E	$1.69E	$1.46E	$6.40E	9.1x
Current	1996	$1.85E	$1.91E	$1.94E	$1.65E	$7.35E	7.9x

We continue to rate MO stock a buy. We expect 1995 EPS to advance over 17% to $6.40. Earnings results should be derived from strength at worldwide tobacco operations and aggressive share repurchase. MO's operating margin should improve over one full percentage point 17.5%, derived primarily from margin expansion in the domestic tobacco and domestic food businesses. Net free cash should exceed $3.5 billion in 1995. Despite the company's excellent fundamentals and strong earnings outlook, the stock is currently selling at 9.2X our 1995 EPS estimate. This represents a 37% discount to the S&P 500 market multiple. The stock trades at this depressed multiple primarily as a result of pending litigation against the company. We currently await a decision from a court in Louisiana regarding a class action petition against the major domestic tobacco companies. The court's decision is expected at any time. While the market has discounted the stock on this news, a negative decision would most likely adversely affect the stock by several points. Regardless of the decision, it will almost certainly be appealed. We believe litigation has created a opportunity to accumulate shares at very attractive levels as we believe the companies will ultimately prevail in the litigation.

1995 Outlook

Worldwide tobacco profits are projected to grow 12.6%, with the domestic division +8.4% and international +17.3%. Domestic tobacco profits should be driven by market share improvement, a stable domestic cigarette pricing environment, continued focus on growth in the premium sector and minimizing the price gap between premium and savings sector cigarettes. International tobacco

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profit growth should be derived from 13.7% higher unit volume, higher pricing and margin expansion.
Worldwide food profit growth, on a reported basis, is forecast to improve only a modest 5.4%. Kraft Foods, the newly formed domestic operation, should experience significant margin improvement this year; operating margins should expand from 11.8% in 1994 to an estimated 15.2% by year end. The sale of underperforming assets, especially the foodservice and frozen food divisions, along with benefits from streamlining operations will likely be the primary causes of Kraft's margin improvement.
Miller Brewing, MO's beer division could benefit from a better pricing environment in the domestic beer industry in 1995, enabling the company to offset, at least in part, higher aluminum can costs. We are currently projecting 10% profit improvement for Miller in 1995, led by continued momentum in the premium segment.

Fourth Quarter/1994 Results

MO reported forth quarter results of $1.27 to bring full year results to $5.45. Full year EPS were 18.5% higher in 1994 than 1993 on a continuing operations basis. Results were driven by strong worldwide tobacco results. Full year operating income for the tobacco group was up 19.6% on a 15.2% increase in volume. In the highly profitable domestic cigarette market, 4Q operating income increased an astounding 65.4% to $3.3B, on a 12.6% increase in revenues. This is largely due to a mix shift toward more profitable premium brands and higher net pricing. The company reported that premium brands now account for 80.7% of domestic shipments. Internationally, MO continued to grow volumes and market shares as well as profits. Profits grew 38.7% in the quarter to bring full year profit growth to 21.9% for the full year. Market share improvements greater than 1% were reported in 13 of their 20 most profitable markets. Food revenues were up as expected 4.9% to 31.7B for the year. Revenues for the North American food business were up 2.9%, excluding the divestitures of the frozen businesses revenues would have been up 5.9%. International Food group reported operating income up $1.2B of 3.5% on revenues of 10.1B an increase of 7.2%. The margins were adversely affected by negative currency translation and higher coffee costs. Miller profits, up 16.6%, grew much better than expected. New product introductions led the positive mix shift toward premium brands up 4 percentage points to 80% of total mix), and drove the beer vision*s exceptional profit growth.

END OF NOTE

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EXECUTIVE SUMMARY

ES95-04
January 27, 1995

Farreli Delman
President

SPECIAL THIS WEEK...
Tobacco Weekly 95-04
World Alert 95-04
Tobacco Trade Barometer
Part 1 November 1994
Legislative Bulletin 95-02
Leaf Bulletin 95-02

Bolstered by a now growing US cigarette market, contrary to most Wall Street and other projections, Philip Morris reported 1994 net earnings at $4.7 billion, up 17.4% from 1993; operating revenues for 1994 were up 6.9% to $65.1 billion. In the tobacco unit, which PM Chairman-elect and CEO Geoffrey Bible said "delivered some of the best results in [PM] history, and...heading into 1995...is booming," 1994 operating income was up 19.6% to $6.2 billion, while operating revenue at $28.4 billion was up 10.4% over 1993 as worldwide cigarette volume increased 15.4% to a record 757 billion pieces; ***Marlboro's*** worldwide volume rose 14% to 399 billion. At PM USA, 1994 operating income increased 17.6% to $3.6 billion as sales revenues hit $11.1 billion, up 8.6% over 1993; cigarette volume rose 12.7% to 219.4 billion units, compared to the industry's 6.2% increase for the year, and ***Marlboro's*** shipment volume was up 27% to 137.7 billion units. Compared with 1993, PM's US market share, on a shipment basis, rose 2.6 share points to 44.8%, while ***Marlboro's*** share was up 4.6 points to 28.1%. At retail, according to Nielsen data, PM's overall retail share in 4Q94 was at 46.4%, while ***Marlboro's*** share reached an all-time high of 29.4%. PM International's 1994 operating revenues rose 11.5% to $17.6 billion and operating income increased 21.9% to $2.9 billion. At a record 536 billion units, international volume, including US exports, increased 16.6% over 1993, with gains recorded in virtually all markets and strong growth seen in the emerging markets of Central and Eastern Europe (TW95-04, WA95-04).

American Brands reported that, in spite of a .9% decline in Gallaher's sales in the United Kingdom, its tobacco unit registered worldwide volume growth of 6.2% on the strength of a 54% increase in exports, mostly due to ***Benson & Hedges*** shipments to Europe and CIS countries. Gallaher's net sales were up 3.9% for the year to $6.2 billion, as exports grew to 21% of total production in 1994 from 13% in 1993, and international tobacco's condtribution rose to $522 million, up 6.9%. AB also announced that Gallaher would be selling its non-electrical housewares business and its 700-outlet Forbuoys chain to raise about $150 million (Press Release 1/24). ●In Greece, handling the import, marketing and promotion of the ***Benson & Hedges*** brand, distributor Gallaher Hellas reported turnover of $21.2 million in 1994 on sales of more than 1 billion pieces (The Guardian 1/25). ●In China, the Nanchang Cigarette Factory reported 1994 taxes of $3.1 million and profits of $118,483, up 25.3% and 18.2% over 1993, respectively; turnover was up 28.6% compared with 1993, while export exchange earnings of $142,180 were up 15.6% (WA95-04).

For the first time since 1992, Liggett Group's parent company Brooke Group will resume paying a quarterly cash dividend of 7.5¢ per share, payable February 13, 1995 to shareholders of record February 6 (PR 1/25). ●In Canada, Imasco (BAT) is expected to boost its dividend as much as 28%; Imasco is also expected to announce its intention to repurchase 2-2.5 million of its shares in 1995. ●Investors, reportedly seeing future profits because they fear no tobacco liability from parent RJR Nabisco Holdings Corp., made Nabisco Holding Corp. the most heavily traded stock in its January 19 debut as a separate company. ●After being rejected in its initial $32 a share offer to buy Swisher International's parent company American Maize-Products Company (see ES95-02), French agroindustrial company Eridania Bghin Say SA sweetened the offer to $38 a share, or about $380 million. While American Maize's board of directors was expected to consider the latest offer this week, the positioning of American Maize Chairman William Ziegler, who, given his controlling shareholding will ultimately decide whether the company is sold, was unknown. Following the revised offer, Standard and Poor's announced that it placed its "BBB-" senior unsecured debt rating on American Maize on Creditwatch with "developing implications." ●French Economic Minister Edmond Alphandéry announced that the privatization of SEITA started January 26, 1995 with the initial public offering for 55% of the company or about 26.6 million shares (Agence France Presse 1/25). Meanwhile, Generale des Eaux and LVMH have dropped out and BIC is reportedly interested in acquiring a stake. ●Claiming Philip Morris is not a suitable owner on competitive grounds, Swedish Match CEO Klaus Unger reportedly sees as suitable owners Skandinaviska Tobakskompagni (Denmark) and RJR, as well as other industrial companies and a number of financial companies (TW95-04, WA95-04).

In a decision, stemming from the year-old Israeli Monopoly Supervisor's request for a temporary stay on a Dubek cigarette distribution plan to focus on its own products only, Antitrust Court Judge Miriam Noar ruled that Dubek could set up an independent distribution system provided that Dubek gives enough notification for its competitors to set up an alternative system. ●Unhappy with Philip Morris's alleged effort to capture 60% of the tobacco distribution market, reportedly by squeezing the margins of its members, the Czech Tobacco Distributors Association plans to approach the Economic Competition Ministry over the matter (WA95-04).

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Following FTC approval granted this week and shareholder approval expected by April 1, 1995, the merger between Dibrell Brothers and Monk-Austin results in a wholly-owned DiMon International Inc., the second largest leaf dealer in the world. President Albert Monk III, head of the tobacco unit, announced that DiMon's subsidiary companies in Zimbabwe and Malawi would be called DiMon Zimbabwe (Private) Ltd. and DiMon (Malawi) Ltd., respectively and that Brian Harker will assume the position of SVP and Regional Executive for DiMon International's Africa region, which also includes South Afric ● To better manage cigarette exports, Hunan Province-based Changde Cigarette Factory signed a 15-year joint venture contra with Thailand-based Pacific Inc. creating the Sino-Thai International Tobacco Co. (TW95-04, WA95-04).

The US merchandise trade deficit shrank $913 million to almost $15.95 billion in November 1994, while the tobacco industry, breaking the $600 million mark for the second consecutive month, posted a new record trade surplus of $697.4 million, up nearly $53.8 million or about 8.4% from the previous record set in October 1994. Comparing the first eleven months of 1994 to that of 1993, tobacco's trade surplus was up over 51.3% to $5.4 billion as both the value and quantities of leaf and product imports declined substantially and cigarette exports hit record levels. The balance of trade in leaf was up almost $253.2 million, or 40.7% (net of oriental), while the tobacco products balance, at nearly $4.81 billion, was up almost $1.51 billion or about 45.7%. ●With an all-time record high monthly shipment of 26.66 billion cigarettes in November (almost 1.56 billion pieces more than the previous record set just last month), US cigarette exports during the first eleven months of 1994 totaled 205.36 billion pieces, valued at nearly $4.57 billion, up almost 15.7% in volume and 28% in value, and on pace to finish 1994 nearly 10% ahead of 1992's record level, at over 226 billion pieces. ●In discussions on the remaining issues impeding Taiwan's entry into GATT, US negotiators are dissatisfied with the proposed three-year wait before foreign cigarette manufacturers will be able to produce their products in the domestic Taiwan market (TTB1 11/94, WA95-04).

The US Department of Agriculture (USDA) announced that provisions of the *Omnibus Reconciliation Act of 1993* relative to imported tobacco were not affected by the *Uruguay Round Agreements Act of 1994* (see ES94-49). According to Grant Buntrock, acting EVP of the USDA's Commodity Credit Corporation, Section 422 of the 1994 Act "provides that any changes [with respect to imported tobacco] can not become effective unless and until the President determines that a tariff rate quota (TRQ) should be proclaimed for tobacco in connection with ongoing international negotiations and until that tariff rate quota goes into effect." ●Encouraged by the decision to include Greek sun-cured tobacco in the European Union subsidy program, Italian Farm Minister Walter Luchetti asked the EU Farm Commission to create a new category for sun-cured tobacco grown in Italy. ●In Turkey, IZMIR Agriculture Office President Resit Kursun set the target price for leaf tobacco at $4.40 per kilogram, with an intervention price of $3.42, based on the assessment that it costs $2.61 for a farmer to grow 1 kilogram of tobacco. ●Due to a decline in hectares under tobacco cultivation in recent years, the China National Tobacco Corp. established a 1995 allotment of 1.3 million hectares for flue-cured tobacco, with a production target of 240,000 metric tons; the output quota for dark air- and sun-cured leaf is 10,000 metric tons. ●Zimbabwe flue-cured tobacco growers are reportedly optimistic that the quality of the 1995 crop will be better than 1994's, expecting to produce at least 190 million kilograms, earning $313 million. However, negotiations with the IMF on a new aid package have been stymied, in part over a fear of another drought. ●According to Hampton Henton, Jr., Director of Kentucky's State Consolidated Farm Service Agency, the *Federal Crop Insurance Reform Act of 1994* requires all farmers to buy "catastrophic" crop insurance at a rate of $50 a crop in order to participate in the Federal price support program. ●In the US, through January 19, 1995, gross sales of 1994-crop burley tobacco aggregated almost 577.3 million pounds, returning $184.15 per hundred, with the Burley Cooperatives accepting 8.8% of gross sales compared with 34.9% at the same point last season (TW95-04, WA95-04, LEAF95-02).

According to the Canadian Tobacco Manufacturers' Council, since the Federal and Provincial tax rollbacks, the redistribution back to "legal sales" from illegal imports continues to materialize. Increasing 61.4% in December 1994, domestic cigarette sales in 1994 were up 51.4% compared to 1993; combined with a drop of 60.1% in exports to the US, overall cigarette sales were up 2.5% over 1993, according to Statistics Canada (Agence France Presse, Canada Newswire 1/25). ●Reportedly the Turkish Prime Ministry Committee is considering a cigarette tax increase. Proposals under consideration include: increasing the 80% cigarette joint tax to 90%, 95%, or 100%; reducing the $5 per kilogram import tobacco fund to $2; and imposing a 20% import cigarette joint tax. Meanwhile, under a Europe free trade agreement, Turkey's tobacco, cigarette, and chewing tobacco import customs duty was reduced from 40% to 20%. ●In Saudi Arabia, the Minister of Finance and National Economy said the tariff for tobacco and derivatives will remain at its current rate of 30% (WA95-04).

Responding to President Clinton's State of the Union address of January 24, 1995 in which he called for an "incremental approach" to health care reform, Speaker of the House Newt Gingrich (R) said that modest health care reform could come as early as this summer, providing Democrats don't add on unnecessary "pet" items to any health care reform bills. Senators Mark Hatfield (R-OR) and Bob Graham (D-FL) are reportedly planning to introduce health care legislation on January 31 based on a Federal-State-private sector partnership, with the possibility of being funded by a tax on tobacco. ●Senator Kennedy (D-MA) has introduced a universal health care bill which would raise the Federal cigarette excise tax $1.50 per pack to $1.74 to help finance subsidies for low-income persons and small businesses (TW95-04, LEG95-02).

In a decision handed down January 19, 1995, Sacramento, California Superior Court Judge Roger Warren ordered the State of California to cease diverting tobacco tax funds and spend the approximately $90-$100 million funds on Tobacco Control programs specified by Proposition 99. ●Meanwhile, two bills were introduced in the Arizona House to spend funds generated by the State's new tobacco taxes (see ES94-45) on programs other than those outlined in the ballot initiative. ●In Illinois, ruling that the State tobacco excise tax treated out-of-State manufacturers differently than in-State manufacturers, a Cook County judge declared the State tobacco tax on OTP unconstitutional. While the State has agreed to stop collecting the taxes from the State's 160 tobacco distributors, it has not decided whether to refund the $10.9 million in OTP taxes collected since the General Assembly imposed it in 1993 (TW95-04).

2041128990

EXECUTIVE SUMMARY

Farrell Delman
President

ES95-03
January 20, 1995

SPECIAL THIS WEEK...

Tobacco Weekly 95-03
World Alert 95-03
Tobacco Barometer September 1994
Leaf Bulletin 95-01

Signaling a change in the tide, the City Council in Santa Monica, California repealed major provisions of a tough antismoking ordinance that restricted smoking in almost all businesses, including banquet rooms and bars. ●Following suit, the Laguna Hills City Council, also in California, voted to reject a motion to ban smoking in all the City's bars. ●According to Career Horizons's 1995 Salary and Employment survey, 55.4% of US companies surveyed ban smoking, while 5.4% allow smoking in all areas. ●In Australia, the New South Wales (NSW) Restaurant and Catering Association called on the NSW Government to introduce legislation that would ban smoking in restaurants, clubs, hotels and bars. The Minister for Health said he was in the process of approving the establishment of a task force to examine the issue, and consider legislation, however, he warned that there was "no commitment...to introduce legislation." ●Claiming market research showed that its "transatlantic passengers prefer a smokefree environment," Northwest Airlines announced it will ban smoking on the following transatlantic flights: Detroit to Frankfurt, Detroit to Paris, Minneapolis-St. Paul to London, and Boston to London flights, effective March 1, 1995. ●German-based Lufthansa said it will test nonsmoking flights on all its services from Canada during a two-month trial period beginning February 1. ●On January 15, Belgian airline Sabena began a three-month trial smoking ban on all its flights between Belgium and the UK (Travel Trade Gazette 1/13). ●Effective March 1, all Qantas flights from Canada and the US to Australia and New Zealand will be nosmoking (TW95-03, WA95-03).

On January 13, 1995, in what is believed to be the first of its kind in Canada, Richard Sommers, representing three Ontario residents, filed a class action lawsuit against Imperial Tobacco (BAT), Rothmans, and RJR-Macdonald seeking damages from the companies for allegedly "knowingly addicting" millions of Canadians to nicotine. Claiming evidence presented in an April 1994 US Congressional hearing, coupled with results of a US Food and Drug Administration investigation, "made it quite plain" that US tobacco companies knew of nicotine's addictiveness, Sommers said that the links between US and Canadian cigarette manufacturers means "the evidence applies in Canada equally." The suit also asks the Ontario Court's general division to order the three cigarette manufacturers to underwrite the costs of smoking-cessation clinics for those Canadian smokers who want to quit. Denying the accusations, Imperial Chairman and CEO Don Brown said Imperial intends to "vigorously defend" its record and conduct, while a Rothmans spokesman said the company will contest any and all allegations. ●According to a recent *ADWEEK* article, an unnamed tobacco lobbyist believes that US Food and Drug Administration Commissioner Kessler, later this month, will declare tobacco a "nicotine delivery system" and claim that as long as the product contains an allegedly addictive drug, the regulation of it falls under his jurisdiction. The article also claimed that some Washington insiders believe Kessler won't move to control cigarette sales or nicotine levels, but will instead look to control tobacco advertising, joining the battle over whether tobacco companies allegedly target teenage consumers (WA95-03, TW95-03).

Testifying at the US Occupational Safety and Health Administration's (OSHA) hearings on its proposed indoor air quality rule, RJR told OSHA that the studies it was using to support its proposed workplace smoking regulations were "flawed." According to Dr. Chris Coggins, principal R & D toxicologist with RJR, "rather than use ETS or a surrogate, most of the studies (cited by the US Environmental Protection Agency) used fresh mainstream smoke, which is known to be physically and chemically different from ETS." Coggins, noting that "studies without major drawbacks were only considered in a cursory way, if at all, by OSHA, asserted that studies that used ETS showed that the effect of "sidestream smoke as extremely minimal — even at massive exaggerations of real-world ETS concentrations." ●Brown & Williamson was ordered to turn over documents related to the testing of ETS in the case of *Butler v. RJR et al*. According to plaintiff's attorneys, should Judge B.J. Landrum accept the documents as evidence, it would mark the first time they were used in a court case. ●Also at B&W, records of import and export sales of cigarettes were seized as part of a Federal criminal tax investigation focusing on Canadian re-imports. Peter Strasser, an assistant US attorney in Louisiana, said the records were seized under a search warrant and that no public filings had been made in the case ●Likening the present antismoking movement in the US to the era prior to Prohibition, historian Mark Lender, Director of Advanced Study and Research at Kean College in New Jersey, in a new study, *A New Prohibition? An Essay on Drinking and Smoking in America*, queries: "Reformers may have already won the battle for public opinion on smoking. Is it good social policy to implement government-backed, strong-arm measures on top of such success?" ●Denouncing US Speaker of the House Newt Gingrich's personal spokesman for calling antismoking activists "Nazis," the Israel Forum for the Prevention of Smoking said the comparison was despicable, "since antismokers want to save lives from alleged tobacco-related illnesses, not in murdering innocent people." (TW95-03).

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On January 13, 1995 French Economic Minister Edmond Alphandéry launched the first phase of SEITA's privatization by formally offering 25% of the company, or 13 million shares, to a core group of financially stable organizations (la groupe d'actionnaires stables or "GAS"). The offering is down from the 35% share recommended by SEITA's president, Jean-Dominique Comolli (see ES95-02), with the Government retaining 10% of what it now expects the public to value as a $1.1 to 1.5 billion enterprise. Each of the GAS companies acquiring not less than 1% nor more than 10% must retain their shares for at least 24 months and for the next 24 months will be permitted to sell a maximum of 50% of their interest only to other core shareholders who are each limited to no more than 12.5%. Companies have until January 27 to respond as to the degree of their interest in becoming participants in the 25% GAS group, however, GAS share holders will only know what they will need to pay for their shares once the public offering for 55% of the company is made since their cost will require payment of a 2% premium above the public offering price. ●Polish Privatization Minister Wieslaw Kaczmarek said this year's sales revenue target of $616 million could be jeopardized if the Government fails to sell its tobacco industry, adding that joint efforts with the Farming Ministry is "going very badly." ●The Japanese Government disclosed under its draft FY96 plan that it will privatize the salt monopoly division from Japan Tobacco, transforming it into a salt business center. ●To end "confusion" caused by the absence of legislation governing local branches of foreign firms, Vietnam Premier Vo Van Kiet gave special dispensation to Rothmans, BAT, and PM to be treated as local firms (WA95-03).

BAT (Suisse and France) President Claude Alain Borloz resigned from his post at the end of 1994, reportedly to explore other opportunities. ●UST announced that its net sales in 1994 increased 10% to $1.22 billion, the company's third consecutive billion dollar year; net earnings rose 11% to $387.5 million, while earnings per share increased 15% to $1.87. Domestic unit volume for its moist snuff increased 2.6% to 627.4 million cans (PR 1/18, WSJ 1/19). ●BAT (Germany) reported 1994 turnover at $3.27 billion, up 2% over 1993; total cigarette sales volume increased 7.6% to 46.7 billion pieces, with gains concentrated in the Ukraine and Poland. Despite a nearly 1.7% rise in German sales to 24.6 billion pieces, BAT's market share slipped from 18.9% to 18.5%. ●Spain's Tabacalera announced that it distributed an interim dividend of 48¢ per share on 1994 profits. ●Meanwhile, Universal Corporation announced that earnings from continuing operations for FY95, ending June 30, 1995, may be below its previous estimate of $50 million, attributing the difference to lower than expected sales in Eastern Europe, due to the depressed economy and a "significantly overvalued Brazilian real" resulting in higher export costs (WA95-03, TW95-03).

In the US, cigarette manufacturers are expected to report strong earnings gains for 4Q94, but the outlook, according to tobacco analysts, will be "distorted because of comparisons with depressed earnings" caused by the 1993-94 price war. Most analysts agreed that while 4Q94 should see solid improvements in volume and profits domestically, earnings from international divisions will be exceptionally strong. "The big story is going to be that international tobacco continues to exceed everybody's expectation," said Sanford C. Bernstein analyst Gary Black. ●At over 538.55 billion pieces, of which almost 153.6 billion or over 28.5% went for export, US cigarette production for the first three quarters of 1994 was up 5.1%, or nearly 26.14 billion pieces, when compared to the same period of 1993; domestic taxable removals at over 370.15 billion pieces were up almost 4.3%. Also for the first nine months of 1994, domestic taxable removals of snuff were up 6.7%, large cigar total removals were up 5.2%, and little cigar domestic removals were up 6.4%, while chewing tobacco (-2.4%) and pipe tobacco (-2.8%) domestic removals were down. ●Swiss cigarette sales fell 2.1% to about 15.6 billion pieces in 1994, a slower rate of decline than the 5.9% drop experienced in 1993. ●In Turkey, Government Minister Nafiz Kurt announced that a small filter version of the ***TEKEL 2000*** cigarette brand will commence production at the end of this month and retail for 67¢ per pack; ***TEKEL 2001***, a new brand, will be produced starting March 1995 and retail for 62¢ per pack. ●According to Genaro Garcia, Director of INTABACO, between 75 and 100 million cigars will be exported from the Dominican Republic to Europe and the US in 1994, compared to 60 million in 1993. ●In China, Jiangxi Province manufactured 462,000 cigarette cases in 1994, 7.5% less than in 1993, but its tax and profit rose 34% to $89 million. (TW95-03, TB 9/94, WA95-03).

Once again leading all industries, the China National Tobacco Corp. (CNTC) provided 12% of the total industrial and commercial taxes in 1994, generating $6.52 billion in profits and taxes, up 34% over 1993's $4.86 billion. ●Thailand's Finance Minister increased the cigarette tax 5%, raising the price of a pack of local cigarettes between 2-8¢ and imported brands by 4-12¢. ●Already the highest tax rate on any consumer product, Spain's 70% 'special taxes' on cigarettes will increase to 72% in 1995. ●To ensure continued support from the International Monetary Fund, Turkey is planning to launch new revenue-generating measures including raising taxes on tobacco, alcoholic beverages, and petrol. ●In a pre-budget submission, a coalition of Canadian health groups demanded that the Federal Government set a clear timetable to raise tobacco excise taxes. The coalition also asked Martin to increase the tobacco industry profit tax from 40% to 60% (WA95-03).

In Russia, avoiding legislation to ban all tobacco advertising, cigarette companies adopted a new *Voluntary Code of Behavior*, which took effect January 1, 1995. Under the *Code*, no tobacco advertisements will be aired on TV before 10 p.m., no billboards will be placed within 100 meters of schools, and no advertising will occur in publications aimed at individuals under 18 years of age. ●In addition to the restrictions placed on cigarette TV advertisements (see ES95-01), Brazil's Minister of Health announced that prime time shows and television news programs will be forbidden from showing people smoking. In addition, a graphic warning will cover one quarter of the front of each pack. ●France's public prosecutor's office has called for an inquiry into SEITA's $2.8 million advertising campaign to determine whether it violates the *Evin Law*, which places restrictions on tobacco and alcohol advertising (WA95-03).

With the establishment of a tariff-rate-quota (TRQ) for imported tobacco under GATT, on January 17, 1995 negotiations on the establishment of a TRQ for Brazilian tobacco exports to the US began. Reportedly Brazil is trying to maintain a TRQ of 115,000 metric tons, the same as in 1993, however, US officials regard that level of TRQ as "unacceptably high," saying 1993's export volume was "exceptional" and cannot be used as a criterion. Nonetheless, a tariff of 17¢ will be levied on each pound of tobacco within the TRQ to be established, with any amount above the TRQ subject to a tariff as high as 350%. ●Counting the previously announced buyout agreement (see ES94-48), the US Department of Agriculture (USDA) announced that the 1995 national marketing quota for burley tobacco would fall between 549-583 million pounds, up 206.2-240.2 million pounds over 1994, not counting 1994's 10% limit in quota reduction. The positive 20+ million pound reserve supply adjustment, which counts the buyout, flipped by almost 186 million pounds from the negative 165 million pound 1994 adjustment. USDA, in its preliminary quota calculations, also announced that US cigarette manufacturers intend to purchase 385 million pounds of burley tobacco, farm sales weight, from the 1995 crop, an increase of 61 million pounds, or over 18.8%, over 1994 intentions. The actual setting of the 1995 quota, which will be announced by February 1, will be nearly 1.2% to over 7.4% above the 1994 quota of 542.7 million pounds, the first quota increase in four years. ●With the US burley belt resuming post-holiday recess sales January 9, gross sales of 1994-crop burley tobacco, through January 12, aggregated over 543.5 million pounds, returning $184.20 per hundred, with the Burley Cooperatives getting 8.7% of gross sales compared with 34.5% at roughly the same point in last year's season. ●In Spain, fearing that Intabex Filipinas, which operates in foreign tobacco markets, and financial aid to Cuban growers will be detrimental to domestic producers, tobacco growers denounced Tabacalera's current leaf buying strategy and demanded that priority be give to domestic producers, much like the French farmer demands being made on SEITA over the privatization (WA95-03, TW95-03, LEAF95-01).

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TMA EXECUTIVE SUMMARY

ES95-02
January 12, 1995

Farrell Delman
President

SPECIAL THIS WEEK...

Tobacco Weekly 95-02
World Alert 95-02
Legislative Bulletin 95-01
Trademark Bulletin 95-01

Following BAT's recent acquisition of American Tobacco, Brown & Williamson (B&W) announced the consolidation of facilities and work force with that of American. According to a B&W press release, 1,230 full-time field sales personnel are affected by the reduction of which 150 will be offered part-time positions. All other positions will be part of the reductions. The consolidation will phase-out all American facilities, affecting an additional 450 research and administrative support jobs, with the exception of the Hammer tobacco sheet manufacturing facility, employing about 145 in Chester, Virginia, as well as American's Golden Belt tipping paper, foil, and label production facility in Durham, North Carolina. Nevertheless, a number of employees throughout American's former operations will be recruited for various positions within B&W. Also, in compliance with BAT's agreement with the US Federal Trade Commission (FTC), B&W will be "required to make the Reidsville, North Carolina cigarette manufacturing facility available to the purchaser of brands to be divested" (see ES94-51). B&W has agreed to honor American's union contract at the Reidsville plant at least until its expiration on May 31, 1996 or until the plant is sold. ●In a related story, on January 10, 1995, the FTC gave final approval to a consent agreement with the former American Tobacco, settling charges over ads which claimed that the 'tar' and nicotine levels in ten packs of American's ***Carlton*** cigarette brand are less than any one pack of a competitor's brand. The consent agreement prohibited the former American Tobacco from making any representations about the relative amount of 'tar' and nicotine content that consumers receive by smoking their brands versus any other brands (TW95-02).

A decree implementing legislation to privatize SEITA, the French tobacco monopoly, was published in the January 5, 1995 edition of the *Official Journal* enabling the Economic Minister to submit the proposal to the Privatization Commission, which will assess SEITA's value, a task that will be completed in the next few weeks, and how it should be sold. Analysts have valued SEITA between $930 million to $1.1 billion. The Government will reportedly offer 35% of SEITA's capital to a core set of financial shareholders with Bollore at a 1% to 2% stake, and CCF and Societe General at 3% and 5%, respectively, indicating interest. Of the remaining 65%, unofficial reports indicate that the Government will keep about 10%, 47.5% will be sold to the public, 5% will go to company employees and 2.5% to licensed tobacconists (WA95-02).

Swisher International's parent company, American Maize-Products Company, announced that its board of directors rejected an offer to sell the company for $32 a share, or about $326.4 million, to Monte Edison's Eridania Beghin Say SA, an agroindustrial company in France, claiming that the price was inadequate. William Ziegler III, chairman of American Maize, said his shares of the company were not for sale. A spokesman for Ziegler said he controls about 51% of the company's Class B shares and about 10% of Class A shares. ●MacAndrews & Forbes Holdings Inc. (MFH) and Abex Inc. have entered into a definitive merger pact in which Abex will be combined with MFH subsidiary, Mafco Worldwide Corp, which owns Consolidated Cigar Corp. According to MFH, it will own 80% of the combined company, while Abex will own 20%; Abex shareholders will receive contingent value rights to insure that securities they receive will be at least $10 per share. MFH said that they expect this transaction to close in the second quarter of this year (TW95-02).

Sara Lee Corp reportedly announced plans to close the 275-employee Rotterdam production plant of its Van Nelle subsidiary in three years. Production of tobacco, coffee, and tea will reportedly be shifted to other locations and staff involved moved to other jobs or offered early retirement (AFX News 1/12).

RJR Tobacco International has agreed to acquire its ***Camel*** licensee, and Finland's second largest tobacco manufacturer and leading manufacturer of American-blend cigarettes, Oy P.C. Rettig AB, for undisclosed terms. Rettig has two tobacco-manufacturing units in Finland with a total of 300 employees; the Rettig operations in Turku, which date back to 1845, produce cigarettes, roll-your-own and pipe tobacco, and a facility in Pietarsaari manufactures cigars and was founded in 1762. Rettig is also the market leader in pipe tobacco, roll-your-own tobacco, and cigars--manufacturing about 75% of the cigars sold in Finland; its market share in roll-your-own tobacco exceeds 75%. The Finnish cigarette market represents about 5 billion units annually (BW 1/11).

In a recent ruling, New York Federal Judge Richard Owen dismissed a class-action suit filed against Philip Morris Cos. by shareholders alleging PM made fraudulent statements in 1993 to raise the price of its stock. None of the allegedly fraudulent statements is actionable, Judge Owen ruled, and no fraud allegation was pleaded "with sufficient particularity." PM said it was "very pleased" with what it viewed as a "significant victory." The plaintiffs are expected to appeal. ●On January 5, 1995, Philip Morris stock dropped $1.375, to $57.50, on reports that US District Judge Okla Jones, in *Castano v. American Tobacco Co. et al.*, rejected defense requests to have an appeals court review rulings, that denied preemptions based on pack health warnings made by Judge Jones predecessor in the case (TW95-02).

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With its newly created affiliate, ITL Pacific Ltd., UK-based Imperial Tobacco launched its first new product in the Asia-Pacific region. Initial stocks of the UK-produced ***Superkings*** cigarette brand sold out in four days, after the recent launch in Taiwan. In a separate agreement, ITL signed a cooperation agreement with China National Tobacco Corp. and the Shangqui Cigarette Factory in Henan to co-produce and sell one brand in China, as well as to export an ITL brand from China. ITL posted a record $500 million in profit on turnover of $5 billion during its fiscal year ending September 30, 1994 (WA95-02).

Greece and Turkey are reporting higher leaf tobacco exports to the CIS and some Asian countries — traditionally importers of Bulgarian tobacco. In 1993, Bulgartabak, the Bulgarian tobacco monopoly, exported only 300 metric tons of tobacco to Eastern markets, down from annual exports of 25,000-30,000 metric tons recorded several years prior. Turkey and Greece, however, have increased their leaf tobacco exports to these markets to 48,000 metric tons and 18,000 metric tons, respectively, up from less than 5,000 metric tons. Bulgartabak said a maximum of 25,000 hectares will be planted this year, down 4,000 hectares from 1994 and 14,000 hectares from 1993. Bulgartabak did, however, report a net profit of $2.46 million in 1994, as Angel Shterev, head of Bulgartabak's governing board, dismissed rumors of an imminent bankruptcy and noted that in 1994 Bulgartabak managed to settle the bulk of its debt and interest payments, and paid $5.01 to the Exchequer to cover part of its unpaid taxes (WA95-02).

The Canadian Federal Government will reportedly lose almost twice the $321 million it estimated it would forgo in the first year after lowering tobacco taxes to combat cigarette smuggling, and the Provinces will lose $713.6 million, according to an article in the *Toronto Star*. The article claimed that an unnamed Finance Department official said the shortfall was due to the Government's over-estimation of the smuggling problem, as only 25% of cigarettes being smoked were contraband, not the 40% estimated. The article also claimed that the tax cuts were deeper than needed to bring contraband sales under control. David Dodge, Deputy Minister, Department of Finance, Ottawa, said, however, that the article contained factual errors both with regard to anticipated tax revenues, which he said were on target, and with regard to the level of smuggling. He noted that increased legal sales and the substantial decline in exports since the February 1994 tax cut, confirm that the Government's estimate of the extent of the tobacco smuggling market were correct (WA95-02).

The Czech Republic's Parliament passed a number of tax amendments, including a lowering of its VAT to 22%. ●Switzerland introduced a 6.5% VAT on January 1, 1995 replacing the consumer tax. ●As a result of unspecified changes in Norway's tax policy, cigarette and tobacco product prices will increase this year (WA95-02).

Also in Norway, the Parliament's Committee of Social Affairs approved legislation that bans cigarette vending machines and requires persons who sell tobacco products to be over 18 years-old. The Committee also agreed to a ban on smoking in shopping malls and waiting rooms, as well as a ban on collateral product advertising. ●New York City Mayor Giuliani (R) signed into law a bill which bans smoking, effective April 10, 1995, in a broad range of public places, despite opposition from many of the City's restaurateurs (WA95-02, LEG95-01).

Copies of a petition calling for Food and Drug Administration (FDA) jurisdiction over tobacco products were delivered on January 11, 1995 to congressional leaders and FDA, according to the Coalition on Smoking OR Health (COSH). The petition said that "without banning them, tobacco products should be regulated to protect the public health as much as possible" adding that children should not be "encouraged to smoke or given access to tobacco products." The petition, which COSH claims was signed by more than 250,000 people from all 50 states, included proposals: requiring the tobacco industry to inform consumers what levels of nicotine, 'tar', chemical additives, and other potentially harmful substances were the in the products; establishing and enforcing laws to forbid the sale of tobacco products to individuals under age 21; working with States to require the labeling of tobacco products to warn consumers about alleged addiction, stroke, and other health risks; banning all tobacco advertising, or at least advertising that could affect children; restricting allegedly deceptive or misleading ad images; banning free or discounted giveaways of tobacco products; and eliminating event sponsorships (Daily Report for Executives).

The US Tobacco Institute (TI), released a study showing that "a majority of Americans oppose expanding the Federal government's regulation of cigarettes." The survey of 1,000 Americans found that 75% felt that "adults should be free to choose to smoke cigarettes without further interference." The survey also showed that 30% of people favor keeping current regulations and 28% favor reducing them; however, the poll also showed that 35% of Americans favor more regulation of cigarettes and 30% favor keeping the current regulation. ●In an effort to show the new Congress where Americans stand on the issue of lifestyle regulations, RJ Reynolds announced that they had collected 1.1 million signatures in a nationwide petition drive opposing regulation of cigarettes. Jim O'Hara, FDA spokesman, said that if the TI and RJR are hoping to sway the FDA, they will be disappointed (TW95-02)

The United Kingdom's outdoor advertising industry is forecasting its best first quarter since 1989, despite enactment of a recent tobacco industry voluntary advertising agreement that further restricts tobacco advertising. Major contractors said the new restrictions, which force tobacco advertisers to cut spending by 40% and stop all outdoor advertising within 200 meters of schools, have had little industry impact. The US outdoor ad industry is experiencing similar results. As State anti-tobacco legislation has resulted in fewer outdoor ads for tobacco products, the advertising agencies have picked up the slack by recruiting non-traditional advertisers, such as the fashion, movie, and packaged goods industries. An outdoor ad executive recently said his company's belief was that "if outdoor advertising could prove effective for cigarette companies, it could also add value for other industries" (WA95-02, TW95-02).

Lorillard is selling a "value-priced" variety of ***Kent***, ***Kent International Premium Lights***, on the US market stating that it costs less than its premium brands and other varieties of ***Kent***. The sales of "value-priced" cigarettes, however, have reportedly been flat or declining since Philip Morris reduced the price of its premium brands in April 1993. ●Believing that the smokeless cigarette market has a lot of potential, Japan Tobacco (JT) announced that it was developing a smokeless cigarette, with hopes of putting it on the market in a few years. JT said that it already has developed several trial products, but has so far failed to achieve a desired level of quality and taste (TW95-02, WA95-02.)

Among trademarks published for opposition by the US Patent and Trademark Office in December 1994 were: ***American Star*** by Theodorus Niemeyer (Netherlands); ***Canadian Tabacofina*** by Rothmans (Canada); ***Logan*** by Empresas La Moderna (Mexico); ***Marshall***, ***Rippington***, and ***Spectrum*** by RJ Reynolds; ***Montana*** by Brown & Williamson; ***Newport Ice*** and ***Newport XM*** by Lorillard; ***Tusker*** by ITC (India); ***Twice As Long*** by PTC Brands; and ***Valentine*** by Star Tobacco (TR95-01)

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KRAFT GENERAL FOODS

PHILIP MORRIS

Miller

Washington Report

WASHINGTON RELATIONS OFFICE

FOR INTERNAL USE ONLY **JANUARY 24, 1995**

CORPORATE

Advertising Tax Deduction May Be On The Table In Administration's FY '96 Budget

The Clinton Administration is reported to be seriously considering changing the current tax treatment of advertising costs to help finance its version of a middle class tax cut. While details of the proposal have not surfaced, indications are that President Clinton may refer to the tax write off in his State of the Union address as an example of a welfare payment that benefits corporations instead of middle class and poor Americans. Labor Secretary Robert Reich has spoken recently on the need to limit "corporate welfare" deductions and endorsed a proposal by the Progressive Policy Institute, a Democratic think tank, that would require business to amortize 20 percent of its advertising costs over 5 years. Philip Morris/Kraft/Miller have joined trade groups and other corporations in voicing strong opposition to the measure.

Senate Commerce Committee Holds Confirmation Hearing On Clinton Pick For FTC Chairman

On January 19, the Senate Commerce Committee held a hearing on President Clinton's nomination of Robert Pitofsky as the new Chairman of the Federal Trade Commission (FTC). Pitofsky served as an FTC Commissioner in the 1970s, later served as a dean at Georgetown Law School, and is currently affiliated with Arnold and Porter, a Washington, D.C. law firm. A range of issues was discussed during the hearing, although there was no explicit mention of alcohol or tobacco. For instance, Pitofsky was asked his opinion on whether the FDA should be granted jurisdiction over advertising beyond its current power over prescription drugs. Pitofsky responded that the FTC should remain the principal agency responsible for regulating advertising. In addition, Pitofsky addressed the issue of potential conflicts of interest relating to matters that might come before the FTC concerning Arnold and Porter's clients, which include Philip Morris Companies, Inc. Pitofsky said that to avoid such problems, he would recuse himself from any such matters that come before the FTC for the first twelve months of his term. Pitofsky is expected to be easily confirmed by the Senate.

TOBACCO

House Subcommittee Holds Hearing On Regulatory Moratorium Legislation -- Markup Tentatively Set For This Week

On January 19, the Regulatory Affairs Subcommittee of the House Government Reform and Oversight Committee, chaired by Rep. David McIntosh (R-IN), held a hearing on legislation which would place a moratorium on most federal regulatory actions for a six month period. The moratorium would permit the Congress to examine the thousands of proposed rules and proceedings that the Clinton Administration has in the regulatory pipeline. At the hearing, McIntosh railed against the Clinton Administration regulatory agenda, stating that "President Clinton is having a love affair with federal regulations." The Clinton Administration indicated its opposition to the legislation at the hearing, and Rep. Henry Waxman (D-CA) was

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also vocal in arguing against it. He said that the bill was a Republican effort to protect "special interests" to the detriment of "children" and other Americans. Specifically, Waxman said the bill "represents a huge gift" to the tobacco industry after the Administration witness told him that the FDA could only gather information and not regulate the tobacco industry for a six month period if the legislation passed the Congress.

The FDA was the subject of considerable criticism during the hearing. For instance, Commerce Committee Chairman Tom Bliley (R-VA), while testifying generally in support of the legislation, said that his Committee would be holding oversight hearings on the regulatory practices of the FDA with the aim of enhancing "public health while minimizing the costs" of regulations on taxpayers. In addition, a patient who received a heart pump and his cardiovascular surgeon testified concerning the FDA's failure to approve a new heart pump that they said was languishing in bureaucratic limbo. The inventors of the Sensor Pad, a device which is designed to aid in the detection of breast cancer, also testified concerning their ongoing 10-year battle with the FDA bureaucracy to gain approval for the product. They told their story, which has been featured in the Wall Street Journal and on ABC's "20/20" program, and noted how Canada had approved their product in a mere 60 days, while U.S. women were denied the use of their product.

Chairman McIntosh has tentatively scheduled a markup of the bill for this Wednesday, which would advance the bill to the full Committee. A companion bill is pending in the Senate, but has seen no legislative action to date.

TORT REFORM

House Commerce Subcommittee Holds Hearing On Reform Proposals For Private Securities Litigation

On January 19, the Telecommunications and Finance Subcommittee of the House Commerce Committee, chaired by Rep. Jack Fields (R-TX), held a hearing on Title II of H.R. 10, the litigation reform bill that is one of the ten items in the House GOP's "Contract With America." Title II would attempt to curtail abusive securities class action lawsuits that trial lawyers routinely bring against American businesses by making losers at trial pay the winners' costs, and by raising the standards that plaintiffs must meet in these cases. Every Republican member of the Subcommittee attended and gave opening statements supporting the bill and attacking frivolous securities litigation. The Democrats attending the hearing also agreed that some reform legislation was necessary, but voiced support for proposals that are less sweeping than the Republican bill. A securities class action case filed against Philip Morris in the immediate wake of the Marlboro Friday announcement, which a federal district court recently dismissed as without merit, was cited several times by proponents of the legislation as an example of abusive and frivolous securities litigation that demonstrated the need for reform. A trial lawyer representative, William Lerach, appeared and defended the current system. Spokesmen for the American Electronics Association and the AES Corporation joined University of Chicago Professor Daniel Fischel in testifying in support of the legislation.

Chairman Fields intends to move Title II of H.R. 10 to markup expeditiously since it is a part of the GOP "Contract," but there is a possibility he may hold one more hearing on the Title before moving it to the full Commerce Committee. The remaining litigation reform provisions of H.R. 10 will be considered by the House Judiciary Committee, which has not yet set hearing dates.

KRAFT GENERAL FOODS PHILIP MORRIS Miller

Washington Report

WASHINGTON RELATIONS OFFICE

FOR INTERNAL USE ONLY JANUARY 17, 1995

TOBACCO

Industry Releases Petition Containing 1.1 Million Signatures Opposing FDA Regulation Of Tobacco -- COSH Releases 250,000 Signatures Favoring Regulation On Following Day

On January 10, the Tobacco Institute, RJR, and representatives of union and grower groups held a press conference at the National Press Club in Washington D.C. to release 1.1 million signatures they had collected opposing FDA regulation of tobacco products. Industry petitions were circulated in every congressional district by volunteers that included smokers, tobacco growers, and retailers. The Tobacco Institute also released a public opinion poll at the press conference that showed that the majority of the public opposed FDA regulation of tobacco products.

The following day, the Coalition on Smoking OR Health (COSH) held a press conference to announce that it had collected 250,000 signatures on petitions urging the FDA to regulate tobacco products. COSH had been attempting to collect these signatures since last fall. While smaller than the number of signatures collected by the industry, COSH claimed that their petitions were only a "first installment" of their collection efforts. As expected, COSH also attacked the Tobacco Institute poll as "misleading."

FOOD
FEDERAL GOVERNMENT AFFAIRS

Changes To Oil Spill Planning Requirements Reintroduced

On January 9, Reps. Tom Ewing (R-IL) and Pat Danner (D-MO) introduced legislation to require differentiation of vegetable oils and animal fats from petroleum oils when promulgating regulations under the Oil Pollution Act of 1990 (OPA). Key federal agencies have argued that they lack authority under existing law to distinguish between petroleum oils and more environmentally benign animal and vegetable oils in requiring spill prevention and emergency response plans under OPA. The Ewing bill, which was referred to the House Agriculture and Commerce Committees, is virtually identical to legislation approved by the Senate during the final days of the last Congress. Senators Tom Harkin (D-IA), Richard Lugar (R-IN) and Larry Pressler (R-SD) intend to introduce an identical bill shortly. The legislation is not expected to be controversial.

FOOD
STATE GOVERNMENT AFFAIRS

Massachusetts Supreme Judicial Court Upholds Validity Of Ballot Questions: Industry Defeats Question One

Acting on a legal challenge from citizen groups in Massachusetts, the state's Supreme Judicial Court recently upheld the validity of the election results for the nine ballot questions that appeared on the November 1994 ballot. Ballot Question #1, defeated by a 60-40 percent vote, would have prohibited corporations and non-profit organizations from contributing to or against future ballot questions. Philip Morris Companies actively participated in and contributed to the coalition that worked to defeat Question #1.

CORPORATE

Tax Committee Agendas Begin To Take Shape

The House Ways and Means Committee, under new Chairman Bill Archer (R-TX), began work last week developing a tax package to implement the middle class and other tax cuts promised in the "Contract With America." The 15 tax provisions contained in the "Contract" include a $500 per child refundable tax credit for those with incomes below $200,000, a 50 percent reduction in the capital gains tax rate, a neutral cost recovery system for depreciation of business assets, and an IRA-like savings account. Chairman Archer has announced his intention to have this tax package ready for floor consideration before the scheduled Easter Recess in April.

In order to meet the revenue neutral requirements of the budget law, the House must find spending cuts to equal the estimated revenue loss from the "Contract" tax cuts, which the Treasury Department estimates will cost $205 billion over five years. Budget Committee Chair John Kasich (R-OH) has asked all House committees to produce these spending cuts so that the Budget Committee can consider them in early March. The Ways and Means Committee will spend much of February writing legislation to cut spending and reform federal health and welfare programs.

Meanwhile, the Senate Finance Committee is proceeding at a much slower pace, with action thus far limited to the confirmation of Robert Rubin as the new Treasury Secretary. Chairman Bob Packwood (R-OR) indicated that he will consider tax legislation only after the Senate has passed the budget resolution in April and the Committee has received its reconciliation instructions. If the Senate proceeds as currently scheduled, the Finance Committee could begin markup of a tax package in late May or early June. Presently, it appears that only one tax issue - capital gains rate reduction - has majority support in both the Senate and House tax committees. This means that the House and Senate bills could differ greatly, requiring a lengthy conference to blend them into a package that could muster the necessary votes to pass the House and Senate and override a possible Presidential veto. Final action on a tax bill may not come before late July or early August.

The FOOD INDUSTRY Newsletter

Since 1972... the food news that matters...when it matters

Vol. 24, No. 2 **January 23, 1995**

Supermarket Chain to Accept Home Delivery Orders Via Telephone, Fax and America Online

Food Emporium recently announced the introduction of *Tele-Direct Shopper*, a shop-at-home service which started Jan. 15 and offers customers the convenience of placing orders by telephone, fax or personal computer through the America Online service. Food Emporium, a division of A&P, is the 1st major supermarket chain in Manhattan to provide telephone and interactive home delivery service.

"Through *Tele-Direct Shopper*, customers can shop our entire store in just minutes without leaving their homes or places of business," says Michael Rourke, senior VP of corporate affairs for A&P.

To place a telephone or fax order, customers need only consult a catalog which lists more than 10,000 products available from Food Emporium, including perishable, grocery, health and beauty items, etc. The catalogs will be distributed periodically as newspaper inserts and are available at all Food Emporium locations. Once selections have been made, customers place orders by dialing a toll-free, 24-hr 800 telephone number.

Local America Online subscribers can view grocery items on their personal computer and electronically order products from Food Emporium. Like catalog users, America Online shoppers can choose from more than 10,000 items which appear on an on-screen menu. Food Emporium employees deliver orders 3 times daily, Mon. through Sat. Customers pay for orders by personal check or credit card. A service fee of $9.95 applies to each order.

Bethesda, MD-based Shopper Express pioneered the supermarket and drug store home shopping industry and currently operates in 28 states and the District of Columbia. Services are available in over 200 markets nationwide, representing 40% of the U.S. population. Shopper Express recently announced a merger with Shopper Vision, a leader in 3D store simulations for interactive shopping.

Ault Foods Claims World-Class Breakthrough with New Milk Processing Technology; Beatrice Fails at Legal Attempts to Stop Ault's Product Launch

On Dec. 15, 1994, Ault Foods Limited (Etobicoke, Ontario), Canada's largest fully-integrated dairy processor with 14 plants in Ontario and Quebec, announced it had developed a proprietary micro-filtering technology to remove bacteria from milk. (See FIN 1/9/95.) According to the company, the new technology could revolutionize the fluid milk industry by creating a value-added category. The technology for the Lactantia PurFiltre™ brand uses microfilters and minimal pasteurization (161°F for 16 sec vs. the commonly used 170°F for 18 sec) to produce milk with 92 times less bacteria than milk that has only been pasteurized, resulting in milk that tastes fresher and stays fresher longer (a 30-day shelf life vs.18 days for normal pasteurized milk). Ault's new milk was available at selected retailers in Ontario starting Jan. 9, 1995.

In reaction to Ault Foods' Dec. 15th announcement, Beatrice Foods Inc. took

legal action to thwart the launch of Lactantia PurFiltre milk. However, the Ontario Court (General Division) decided in favor of Ault Foods and refused to grant Beatrice a temporary injunction. A company spokesperson for Ault tells FIN that Beatrice attempted to convince the court that Ault's advertising claims were confusing to consumers and made normal pasteurized milk appear unsafe and inferior in quality. "Given the potential of this technology, we are not surprised that our competition is now reacting and attempting to impede an effective launch," commented Graham Freeman, Ault's pres/ceo. "...Traditional pasteurized milk is the same safe, nutritious and wholesome product that it has always been, and through the Sealtest brand, we will continue to be the largest supplier of traditional pasteurized milk in Ontario."

Commenting on the unprecedented actions that have been taken by Beatrice, Freeman says: "Our competitor, Beatrice, turned down the opportunity to license this technology from us in Nov. 1994. Now they are trying every avenue in terms of interference. They have approached industry regulators and when that failed, the courts. More recently they are circulating doubts about our product launch and are attempting to raise objections with processor governing bodies. We believe that they used the court injunction unsuccessfully in part to get access to our process technology and consumer research."

Ault is considering licensing agreements with other dairies. "We are currently conducting preliminary discussions with interested parties in the U.S. and Europe," a company spokesperson tells FIN. In an interview with a dairy technologist from a U.S.-based food company, FIN was told the new technology looks extremely interesting and may have applications in the development of a variety of cheese products with improved flavor characteristics.

Dairy processing is the 2nd largest component of the food processing sector in Canada (after red meats), employing over 24,000 people. According to data compiled in 1992 by Agri-Food Canada, Market Services Branch, annual Canadian dairy sales totalled $7.46 bil in 1992 (based on value of shipments from manufacturers). Canadian fluid milk sales in 1992 totaled $1.5 bil (compared to $3.1 bil for beer and $2.2 bil for soft drinks).

INDUSTRY ROUNDUP

Michael Foods has sold the assets of Sunnyside Vegetable Packing Inc. to Purity Food Group (Salisbury, MD). Millville, NJ-based Sunnyside is a processor of refrigerated soups and salads. According to a Michael Foods spokesperson interviewed by FIN, the soup and salad products were a peripheral business for the Minneapolis-based company, which specializes in egg, frozen/refrigerated potato and specialty dairy products. Sunnyside's 1993 sales were less than 3% of the Michael's total 1993 annual sales ($474.8 mil). For the 9 months ended Sept. 30, 1994, Michael's annual sales were $375 mil – an 8.7% increase over the $345 mil reported for the same period in 1993. Principal subsidiaries include M.G. Waldbaum Co., Crystal Farms Refrigerated Distribution Co., Northern Star Co. and Kohler Mix Specialties Inc.... **Quaker Oats Co., through its wholly owned subsidiary, Golden Grain Co., has announced a definitive agreement to acquire Nile Spice Foods Inc.**, a privately held, Seattle-based manufacturer of healthy meals in a cup. The acquisition, which includes trademarks, inventory and fixed assets, is subject to certain conditions, including the expiration of the waiting periods under the Hart-Scott-Rodino Act. "The NSF acquisition is an excellent strategic fit with Quaker's corporate mission of high performance through fueling a healthy consumer with grain-based products and good-for-you beverages," says Philip Marineau, Quaker's pres/ceo. Founded in 1983, NSF is a leader in the rapidly growing "variety meals in a cup" category – products that are low in fat, lower in sodium than most cup meal products, good-tasting and

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easy to prepare, using only hot water. NSF's product line consists of 25 varieties of soups and meals featuring rice, pasta, couscous and beans. NSF's annual sales are approx $29 mil....**Kraft General Foods has announced a new "one company" structure and name change to Kraft Foods.** The new structure dissolves the company's former Kraft USA and General Foods USA operating groups, creating a single N. Am. organization, headquartered in Northfield, IL, with 12 business divisions and one corporate staff. Under this structure, the company will more aggressively leverage its scale. It will unify its 3,500 U.S. sales professionals this yr into a single sales force to increase customer focus and build volume. It also will consolidate all mfg and distribution operations to enhance customer service and reduce costs. By eliminating a management layer across the organization, the company's senior-most executives will be able to work directly with the business divisions, speeding up decision-making and increasing responsiveness to the marketplace. The new name (Kraft Foods) reflects the "one-company" structure and capitalizes on the Kraft brand, the company's largest, best known and most successful trademark, which accounts for more than 25% of N. Am. sales and more than 35% of profits. The question isn't why Philip Morris merged its Kraft and GF operating groups into one organization; the real puzzle is why it took them so long to do it. PM acquired Kraft Foods 6 yrs ago. Distractions from its controversial tobacco business may be partially responsible for the delay. Or perhaps intensifying pressure from shareholders' concerns about its tobacco unit finally forced the company into making overall improvements in operating efficiency....**Grand Met (U.K.) has made a $2.6 bil tender offer for St. Louis-based Pet Inc.** Rumors have circulated in recent wks that Pet Inc., with annual sales of $1.6 bil, was being considered as a takeover target by such prospects as RJR Nabisco, Heinz, Unilever, Campbell Soup, Clorox and ConAgra (FIN 1/8/95). Grand Met's unexpected bid of 21 times Pet's earnings (or double its annual sales) is approx in line with other recent acquisitions of U.S. food companies. Pet's board of directors recommended shareholders accept the bid because it represented an "outstanding value" and would result in increased marketing spending and other benefits of being owned by a large company. If the acquisition is successfully completed, Grand Met's Pillsbury division will be the 7th largest U.S. food company; currently, it ranks No. 14....**Seagram is buying Dole Foods' N. American juice businesses for $285 mil in cash.** The acquisition will significantly bolster Seagram's global fruit-juice operations, raising its annual juice sales to approx $1.9 bil – a 27% increase over its current $1.5 bil. The deal includes American and European plants and joint venture interests in China and Japan. Seagram will keep the Dole brand name but merge the Dole assets with its Tropicana Juice subsidiary. This seems to be a good move for Seagram because it will allow the company to further extend its juice products into int'l distribution. In 1994, approx 50% of Dole's juice sales were overseas, while only 18% of Tropicana's sales were to int'l markets. Approx 25% of sales of the newly combined business will be int'l....**Ralston Purina Co. plans to sell Continental Baking Co. to Interstate Bakeries Corp.** for $330 mil in cash and approx 16.9 mil shares of common stock of Interstate. With annual sales of approx $2 bil, Continental is the largest wholesale baker in the U.S. Famous for its Wonder breads and Hostess cakes, the company has been struggling in recent months, losing some $27.4 mil in the fiscal yr ended Sept. 30. Approx $11 mil of this loss was from restructuring charges and early retirement debt. Interstate, which manufactures Butternut breads and Dolly Madison snacks, is the 3rd largest U.S. wholesale baker, with annual sales in the $1.1 bil range. Because Continental operates primarily in different geographic areas than Interstate, its operations should complement those of Interstate.

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MARKETING UPDATE

Parmalat is extending its line of aseptic dairy products to include a half-and-half presented as an alternative to non-dairy creamers; three new milk-shake products; and a line of orange, vanilla, choc and strawberry flavored milk drinks in brightly colored cartons to appeal to teens. The Italian-owned company plans to spend more than $25 mil in advertising in 1995 (vs. $8 mil in 1994) in its aggressive attempts to become the 1st real national brand in the $27 bil U.S. fluid milk market. So far its major marketing strategy has been handing out an excessive amount of coupons for free samples, and the effort helped establish its shelf-stable milk in the eastern U.S. last yr. However, late this yr when the company expects distribution to reach 70% of U.S. consumers, it may launch its 1st network TV ad. (For more info, see FIN 6/27/94.)...**Pioneer Products (Ocala, FL) has introduced Betty Crocker® Real Chocolate Dessert Decorations.** These new choc decorations are made from premium imported choc and consist of 4 varieties: Leaves, Alphabet and Numbers, Animals and Lace. The decorations were developed to offer consumers quality, convenience and a unique way to decorate their favorite desserts. Until now, consumers could not purchase ready-to-use choc decorations and would make them from scratch. Pioneer Products is a manufacturer of specialty baking products, most of which are sold under the Betty Crocker brand through a licensing agreement with General Mills. ...**Campbell Soup Co. now offers 2 new varieties of Swanson® Great Starts® Breakfast Burritos** – Ham & Cheese flavor and Hot & Spicy. The frozen handheld burritos, which can be heated in a microwave in about 90 sec, are available nationally. The new Ham & Cheese burrito features scrambled eggs with Cheddar cheese and ham in a flour tortilla. The Hot & Spicy variety is a flour tortilla filled with scrambled eggs, cheese, green chili peppers and jalapenos. The suggested retail price for each of the new varieties is $0.89. Hand-rolled and closed at one end, the burritos were specifically designed as fast, versatile breakfast items for today's on-the-go consumers who demand convenience. "The line builds on 2 key trends – the popularity of burritos and the current interest in handheld foods," says Ray Johnston, Campbell's senior mktg mgr, breakfasts. Burritos are one of the fastest growth items in restaurants. According to a *Better Homes & Gardens* survey, 97% of Americans believe breakfast is the most important meal of the day, and 59% agree that children should have a hot breakfast. Other varieties of Great Starts Burritos include Sausage, Bacon and Original, which features scrambled eggs, Cheddar cheese, peppers and tomatoes....**Burlington, VT-based Rhino Foods' famous cookie dough add-in is now available without fat.** Rhino Foods, known for creating the choc chip cookie dough for Ben & Jerry's ice cream, has developed a fat-free formulation which is available to other prospective customers. Perfect for ice milk or frozen yogurt, Rhino's new cookie dough bits can be blended directly into any dairy dessert mix. Customers may purchase the cookie dough pellets alone or in a package that also contains a cookie dough background flavor – a flavor enhancer that subtly carries the rich, cookie dough taste throughout the dessert. The original maker of cookie dough add-ins, Rhino helped to make B&J's Choc Chip Cookie Dough ice cream a best-selling flavor and an international hit. Rhino not only held an exclusive contract to supply only B&J's with its cookie dough chunks, it provided the know-how to get them into the ice cream. Rhino now supplies other dessert manufacturers with its cookie dough and its ice cream expertise. For more info, call (800)639-3350 or (802)862-0252.

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